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{ REPORT  
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### OLDER AMERICANS ACT AMENDMENTS OF 1996

JULY 31, 1996.—Ordered to be printed

Mrs. KASSEBAUM, from the Committee on Labor and Human  
Resources, submitted the following

### REPORT

together with

### ADDITIONAL AND MINORITY VIEWS

[To accompany S. 1643]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1643) to amend the Older Americans Act of 1965 to authorize appropriations for fiscal year 1997 through 2001, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

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#### I. BACKGROUND AND NEED FOR THE LEGISLATION

In an effort to respond to concerns about a shortage of community-based social services for older persons and a desire by policy makers to improve the status of older Americans, Congress passed legislation known as the Older Americans Act (OAA) in 1965. In

doing so, it created a Federal program specifically designed to meet the social services needs of older persons. Prior to the passage of the act in 1965, older persons were eligible for social services available through Federal programs; however, recognizing that older persons were becoming an increasingly large proportion of the population and that their needs were often not being formally addressed through existing programs, the act was put in place.

The original legislation established authority for grants to be made to States for community planning and social services, research and development projects, and personnel training in the field of aging. The law also established the Administration on Aging (AOA) within the then- Department of Health, Education, and Welfare (DHEW) to administer this new grant programs and to serve as the Federal focal point on matters concerning older persons.

Although older persons may receive services under many other Federal programs, the act is considered to be a major vehicle for the organization and delivery of social, nutrition, and other services to the population in the United States aged 60 and over. The act authorizes and provides funding for an array of service programs through a nationwide network of 57 State agencies on aging and 660 area agencies on aging. It also supports a community service employment program for low-income workers aged 55 and over, the long-term care ombudsman program, research, training, and demonstration activities in the field of aging, and grants to Native American organizations for social and nutrition programs.

The act has been reauthorized or amended 13 times since the original legislation was enacted. The first amendments to the act in 1967 extended authorization for the State grant program and for research, demonstration, and training programs created in 1965. In 1969, Congress added authority for a program of area-wide model projects to test new and varied approaches to meet the social service needs of the elderly and required States to assume statewide responsibility for planning, coordination and evaluation of programs for older persons. The 1969 amendments also authorized the foster grandparent and retired senior volunteer programs to provide part-time volunteer opportunities for the elderly. (Subsequent legislation authorized these programs as part of the Domestic Volunteer Service Act of 1973.)

Major amendments to the act occurred in 1972 with the creation of the national nutrition program for the elderly, and in 1973, with the establishment of substate area agencies on aging. The 1973 amendments represented a major change because, for the first time, Federal law authorized the creation of local agencies whose purpose is to plan and coordinate services for older persons and to act as advocates for programs on their behalf. These amendments also created legislative authority for the community service employment program for older Americans which had previously operated as a demonstration initiative under the Economic Opportunity Act. In 1975, Congress extended the Older Americans Act through 1978 and specified certain services to receive priority under the State and area agency on aging program.

The 1978 amendments represented a major structural change to the act when the separate grant programs for social services, nutri-

tion services, and multipurpose senior center facilities were consolidated into one program under the authority of State and area agencies on aging. The intent of these amendments was to improve coordination among the various service programs under the act. Among other changes were requirements that States establish long-term care ombudsman programs whose purpose is to investigate and resolve complaints of residents of nursing facilities and board and care homes. This legislation also created a new title VI authorizing grants to Indian tribal organizations for social and nutrition services to older Indians.

The 1981 amendments made no major changes in the act, but made modifications intended to give State and area agencies on aging more flexibility in the administration of their service programs. These amendments also emphasized the transition of participants to private sector employment under the community service employment program. In 1984, Congress enacted a number of provisions, including: new responsibilities for the AOA; giving States more flexibility regarding service funds allocation under the State grant program; and giving priority to the needs of Alzheimer's victims and their families.

The 1987 amendments expanded some service components of the State and area agency program to address the special needs of certain populations. Congress authorized a number of distinct programs, including the long-term care ombudsman program. Among other changes were provisions designed to give special attention to the needs of older Native Americans and the disabled; emphasize targeting of services to those most in need; elevate the status of the AOA within the Department of Health and Human Services (DHHS); and liberalize eligibility of community service employment participants for other Federal programs.

Amendments in 1992 restructured several of the act's programs. The long-term care ombudsman program and elder abuse prevention activities were consolidated into an additional title, along with a program designed to provide outreach, counseling, and assistance to older persons regarding public and private benefit programs. In addition, provisions were included to strengthen requirements related to targeting of title III services on special population groups. Other amendments clarified the role of title III agencies in working with the for-profit sector and required improvements in AOA data collection.

The Older Americans Act has expanded from a program that authorized small grants to States for service programs to a nationwide network of State and area agencies that are responsible for administration of multiple and complex service programs in addition to planning, advocacy, and coordination of policies and programs that affect the older population. During the late 1960s and early 1970s, much effort was spent on establishing the infrastructure of aging programs. During the course of various amendments, Congress has made changes designed not only to clarify the mission of the program and to provide greater flexibility in its administration, but also to sharpen responsibilities of State and area agencies in certain areas, such as targeting of services to special groups of older persons. Other amendments have extended State and area agencies' scope of operations to many specific areas, in-

cluding prevention of elder abuse, neglect, and exploitation, coordination of community-based long-term care services, and disease prevention and health promotion activities.

Although the program's funding does not represent a significant proportion of the total Federal budget devoted to the elderly, a number of aspects of the program contribute to its importance to older persons. Over the last three decades, a fair level of effort has been devoted to drawing in non-Older Americans Act resources to support aging service activities. Because emphasis has been placed on coordinating and planning services for older persons, and on requiring State and area agencies on aging to attract other resources for aging services programs, the act has even more potential to improve services beyond those funded under its auspices.

The service programs supported by the act are among the most visible programs for older persons within every community in the United States. In fiscal year 1994, the national nutrition program, the largest component of the act, provided 240 million meals to over 3 million older persons. About 53 percent of meals were provided in congregate settings and the balance were delivered to frail older persons in their homes. Preliminary results from an AOA-sponsored national evaluation of the nutrition program, required by the 1992 amendments, has pointed to the success of the nutrition program in generating State, local, and voluntary contributions. The evaluation found that for every \$1 in Federal resources, the nutrition program leverages nearly \$2 in public and private contributions. The nutrition program was found to have a positive impact on the diets of participants. Meals consumed by both congregate and home-delivered meals participants were the primary source of nutrients consumed for the day.

The supportive services program funds a wide variety of social services programs. It is a primary source of funds for information and referral, outreach, senior center and transportation services. In fiscal year 1994, nearly 6.9 million older persons received supportive services. This program also serves as the major source of Federal funds for the long-term care ombudsman program.

## II. LEGISLATIVE HISTORY AND VOTES IN COMMITTEE

S. 1643, the "Older Americans Act Amendments of 1996," was introduced by Senator Gregg with Senator Kassebaum on March 26, 1996. Prior to the drafting of the legislation, the Subcommittee on Aging of the Committee on Labor and Human Resources held two hearings.

### HEARINGS

The first hearing was held on March 21, 1995, and was entitled "Bringing Nutrition Programs into the 21st Century." In an effort to learn more about the day-to-day workings of the OAA nutrition programs, the subcommittee heard testimony from Herb Stupp, commissioner, New York City Department for the Aging, New York, NY; Toby Felcher, special assistant to the executive director of CARE, Baltimore, MD; Debra Perou-Hermans, executive director, Rockingham Nutrition and Meals on Wheels Program, Brentwood, NH; Margot Clark, executive director, North West Indiana

Meals on Wheels, Crown Point, IN; and Barbara Harris, associate director, Senior Citizen Services, Inc., Fort Worth, TX. Testimony focused on the need for significantly increased flexibility in the use of funds under the act, especially the nutrition program dollars. Eliminating the artificial division between congregate and home-delivered meals program funds, and expanding the authority to impose cost-sharing requirements were the two themes most emphasized.

The second hearing was held on June 29, 1995, and was entitled "Maximizing Resources in the Face of Growing Demands." The subcommittee heard testimony from Julie Govert-Walter, executive director, North Central-Flint Hills Area Agency on Aging, Manhattan, KS; Cheryll Schramm, director, Atlanta Regional Commission, Aging Services Division, Atlanta, GA; Neetu Dhawan-Gray, director, Baltimore Commission on Aging, Baltimore, MD; J. Douglas Mickle, director of advertising and marketing services, Reynolds Metals, Richmond, VA; and Jim Dunn, director of customer programs and planning, Consumers Power Company, Jackson, MI. Removing barriers that stand in the way of public/private partnerships in meeting the needs of our seniors received significant emphasis. These providers and persons involved in independent efforts to eliminate such obstacles shared with us the successes of their endeavors. The subcommittee believed it was critical to find ways to allow Americans to direct their own futures, by supporting and promoting such partnerships.

These hearings provided the basis for the underlying principles included in this legislation, having focused on how quality services can best be provided to our older population and how public/private partnerships can be leveraged to promote this important safety net protecting our senior citizens' independence. The subcommittee also followed closely the hearing process before the House Committee on Economic and Educational Opportunities, in an effort to gain as broad a perspective as possible.

#### COMMITTEE ACTION ON THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)

Under current law, the Department of Labor awards SCSEP funds to 10 national program sponsors as well as to State agencies for subsidized employment/community service programs for older workers. Eligibility restrictions require participants to be 55 years old or older, and low-income (at 125 percent of the poverty level) with "poor employment prospects." Preference is given to persons over 60 years of age. The majority of the funds (78 percent) goes to the entitled organizations, and only 22 percent to the State-run programs. Funds are not awarded on a competitive basis and new contractors are not afforded an opportunity to apply for the funds and offer innovative programs to meet the challenges SCSEP is designed to address.

The SCSEP was included in S. 143, the work force development legislation reported out of the Committee on Labor and Human Resources on June 21, 1995. S. 143 maintained the SCSEP until July 1, 1998, when all individual job training programs would have been repealed and consolidated. The bill continued to define eligible older workers as individuals over 55 years of age and low-income.

The accountability section required States to develop goals for their system and then establish special benchmarks for meeting progress toward those goals for five specific populations, including older workers. The Federal governing board would negotiate with the States, with an incentive structure for meeting—and exceeding—the benchmarks. It was expected by the committee members supporting this change to the program that States would be highly motivated to serve their older-worker population well, contrary to concerns that this new system would diminish current efforts to assist older workers. Under the bill, States are required to show exactly how many older workers are being placed in meaningful jobs through the statewide system. If they fail to meet their benchmarks, States will face monetary sanctions.

On June 21, 1995, Senator Mikulski offered an amendment in committee to strip this provision from S. 143. This amendment failed by a vote of 7–9. While all agreed that this program does meet important community needs, Republican members of the committee believed that States would continue to address these needs in the context of a streamlined work force development system. In light of the efforts that the 104th Congress is making to reduce the Federal deficit, it was believed that it is critical that such funds be consolidated to maintain a system that will be able to address employment and income supplementation needs of seniors.

S. 143 was incorporated into S. 1120, the Work Opportunity Act, which was offered as a substitute to H.R. 4, the Family Self-Sufficiency Act. On September 13, 1995, Senator Mikulski offered an amendment to H.R. 4 on the Senate floor to remove the Senior Community Service Employment Program (SCSEP) from title VII, the job training consolidation provisions. This amendment passed by a vote of 55–45, repealing the consolidation of the SCSEP with other federally subsidized employment programs.

#### IMPROVEMENTS TO THE OLDER AMERICANS ACT

After these hearings were held and the action on SCSEP ensured it was once again within the jurisdiction of the act, legislation was drafted and circulated to all committee members in December 1995. The subcommittee, at the beginning of the 104th Congress, had clearly stated that it would focus on issues relating to the health and quality of life of senior citizens and that sound economic principles would be an important theme. The subcommittee, very aware of the demographic challenges seniors' programs face in the near future, decided all legislative proposals would have to extend what has often been short-sighted vision to consider not only the problems that confront our seniors today but those facing the next generations of older Americans. These themes were incorporated into each aspect of the reauthorization draft.

That draft contained provisions that simplified the OAA, restructuring the act into four titles from seven, based on the authority administering each component of the act rather than the individual programs within the act. The bill contained a Federal title, a State title, a title for local programs, and a Native American title. This eliminated a number of burdensome, bureaucratic requirements that had been introduced into the act over the years, while preserv-

ing the best qualities and the essential structure of the aging network that is supported by Federal funds.

Within the nutrition and supportive services grants program in titles II and III (title III of current law) the legislation consolidated six separately authorized funding streams into two, and increased the transfer authority to up to 25 percent between the accounts and provided waiver authority for an additional 25 percent transfer. The goal of these provisions was to maximize limited funding by increasing the flexibility of these programs, allowing those providing services to meet the needs that exist from community to community. This was directly in response to concerns voiced by service providers and program administrators at the local and area agency levels. The artificial funding barrier set up between congregate and home-delivered meals was removed; States will receive a single grant which will be used to appropriately fund both programs. The interstate funding formula was also improved, essentially replacing the 1987 "hold harmless" provisions with a formula based on current 60+ population figures, phased in over 5 years.

Other important activities funded under the act, including the State Long-Term Care Ombudsman program, legal assistance services, outreach and counseling, and elder abuse prevention program authority were continued, but moved to title II of OAA, the State title (currently these activities are in title VII of the act.) A specific funding stream was maintained for the ombudsman program, recognizing the importance of this program. The funding and authority for research and demonstration grants were retained in title I of S. 1643 (title IV of current law). However, the purpose of these grants was clarified to facilitate innovative ways to deliver the broader range of services provided for in the act.

Funding authorization levels in the draft bill were based upon the amounts in the Senate Committee on Appropriations-passed fiscal year 1996 Labor/Health and Human Services appropriations bill.

#### MODIFICATIONS MADE TO THE DRAFT BILL

A number of additions were then made to this draft bill pursuant to discussions with both Republicans and Democrats on the committee, as well as the Administration and numerous providers who are part of the aging network. Changes made to the draft included adding: authority for the Assistant Secretary to continue operating a nationwide toll-free telephone line providing information on community elder care resources; language permitting States to waive, for organizations that have historically provided case management and other direct services, the prohibition against providing both, with safeguards included to minimize conflicts of interests; and a separate line item to fund the ombudsman program, with language clarifying that States can reserve additional funds from the appropriations for supportive services to operate their ombudsman program; and more prescriptive provisions related to the ombudsman program were reinstated, establishing requirements as to how programs are to be organized and operated in States and how to avoid conflicts of interest.

A requirement was added to ensure that the aging network provide older individuals with information about health insurance and

public benefit options available to them (including those available through Federal and State programs). In addition, other provisions added include: a separate line item to fund research and demonstration projects under the act; a requirement that States establish and publish procedures for changing the designation of an area agency on aging; emphasis on the importance of information and assistance services; assurance that confidentiality of individual information related to cost sharing will be maintained and clarification that no older individual can be denied services due to an inability to pay; specific targeting of services to minority populations; and a separate grant program for disease prevention and health promotion.

Authority was retained for the Assistant Secretary to operate a National Center on Elder Abuse. A requirement was added for State plans to specify, with respect to legal assistance, that a specific percentage of the amount allotted for supportive services to each area agency on aging be expended for the delivery of legal assistance. A requirement was also added providing that whenever a State chooses to provide services for the prevention of elder abuse, neglect, and exploitation, the State plan must specify a specific percentage of the amount allotted for supportive services that will be expended for the program.

The definition of low-income was clarified to mean an individual who is a member of a family that has income not more than 150 percent of the Federal poverty line (excluding the economic eligibility requirement for the SCSEP program, which is set at 125 percent of the Federal poverty line); specific authority was added to permit the Assistant Secretary to evaluate the impact of all programs under the act; and disaster relief provisions were added to authorize the Assistant Secretary to set aside an amount equal to .06 percent of the total amount appropriated for supportive and nutrition services to provide grants to States and Indian tribes during major disasters declared by the President—funds not distributed by the end of the fiscal year will be distributed to the States under the formula.

Also, States must consider the geographical distribution of older individuals, the incidence of the need for services, the distribution of older individuals who have the greatest economic or social need, the distribution of resources available to provide such services, the boundaries of existing areas within the State, and any other relevant factors when dividing the State into planning and service areas. Whenever a federally recognized Indian reservation is denied designation as a planning and service area, the Indian tribe may appeal the decision of the State to the Assistant Secretary who may order the State to designate the Indian reservation as a planning and service area. More detailed State reporting requirements were incorporated.

In response to concerns raised about potential restrictions on the appropriation of funds, all authorizing levels were changed to “such sums.”

#### INTRODUCTION OF LEGISLATION

The OAA reauthorization bill was introduced on March 26, 1996 by Senator Gregg and Senator Kassebaum. The introduced legisla-



tion included the draft provisions as amended by the changes listed above. The bill, S. 1643, may be cited as the "Older Americans Act Amendments of 1996."

#### COMMITTEE ACTION

The committee completed action on this over the course of two executive sessions held on May 1 and 8, 1996. Seven amendments were considered during the consideration of S. 1643, with three amendments being adopted, and the legislation as amended was favorably reported by a roll call vote of 9 yeas to 7 nays.

##### *A. Amendment modified and accepted during the executive sessions*

One amendment was modified and accepted during the executive sessions:

1. Senator Simon offered an amendment to restore a number of references to giving priority for services to minority populations. The amendment was modified and accepted. The provisions included expand the application of the definition of "greatest social need" which specifically incorporates "cultural, social, or geographical isolation, including isolation caused by racial or ethnic status" and "greatest economic need" which is defined as "need resulting from an income level at or below the poverty line."

##### *B. Rollcall votes taken during the executive sessions*

Six amendments were offered and rollcall votes were taken. Two of these amendments passed and were adopted.

1. At the May 1 executive session, Senator Mikulski offered an amendment regarding the Senior Community Service and Employment Program (SCSEP). Under the amendment, 75 percent of SCSEP funds in 1997 (decreasing to 65 percent by 1999 through 2001) would continue to be provided by the Federal Government directly to national organizations. National organizations to receive funds would be selected through a competitive process; national organizations having "demonstrated effectiveness in providing community service employment" would be granted 50 percent of the points on any rating scale employed in the competitive process. States could carry out SCSEP projects with funds remaining. The amendment would require that 75 percent of program funds be used for wages and fringe benefits, with a 13 percent cap on administrative costs. The Assistant Secretary could waive the administrative cap in "appropriate cases;" no criteria for what constitutes "appropriate cases" are specified. States would have to limit the number of agreements that they enter into, but the amendment would not limit the number of national organizations that could operate in a State. The amendment would also provide for the Secretary of Health and Human Services to issue performance standards for States and national organizations and impose related reporting requirements and penalties. The amendment failed by a roll call vote of 7 yeas to 9 nays.

YEAS  
Kennedy  
Pell  
Dodd

NAYS  
Kassebaum  
Jeffords  
Coats

Simon  
Harkin  
Mikulski  
Wellstone

Gregg  
Frist  
DeWine  
Ashcroft  
Gorton  
Faircloth

2. On May 1, Senator Ashcroft offered an amendment which would clarify that States may create voucher systems or contract with charitable and religious organizations to deliver program services. The amendment would allow religious organizations providing services to maintain their religious character while ensuring that beneficiaries are not discriminated against in the delivery of program services and must be allowed to receive services from a non-religious provider if they desire. This amendment passed by a roll call vote of 8 yeas, 7 nays, and one present vote.

YEAS  
Kassebaum  
Coats  
Gregg  
Frist  
DeWine  
Ashcroft  
Gorton  
Faircloth

NAYS  
Kennedy  
Pell  
Dodd  
Simon  
Harkin  
Mikulski  
Wellstone

Present: Jeffords.

3. On May 1, Senator Wellstone offered an amendment that would mandate that States expend a minimum of 95 percent of the amount they spent on legal assistance services in the past. The amendment failed by a roll call vote of 7 yeas and 9 nays.

YEAS  
Kennedy  
Pell  
Dodd  
Simon  
Harkin  
Mikulski  
Wellstone

NAYS  
Kassebaum  
Jeffords  
Coats  
Gregg  
Frist  
DeWine  
Ashcroft  
Gorton  
Faircloth

4. On May 1, Senator Wellstone, on behalf of Senator Kennedy, offered an amendment that would make elder abuse programs a State-planning mandate and that States must expend a minimum of 95 percent of the amount they spent on elder abuse prevention services in the past. The amendment failed by a roll call vote of 7 yeas and 9 nays.

YEAS  
Kennedy  
Pell  
Dodd  
Simon  
Harkin

NAYS  
Kassebaum  
Jeffords  
Coats  
Gregg  
Frist

Mikulski  
Wellstone

DeWine  
Ashcroft  
Gorton  
Faircloth

5. At the May 8 executive session, Senator Coats offered an amendment to the supportive and nutrition services funding formula. The amendment gives weight to various age cohorts, a measure found to indicate the portion of the “elderly in-need” (EIN), and the State revenue base, measured by the relative total taxable resources compared to their relative EIN. The amendment passed by a vote of 12 yeas and 4 nays.

YEAS

Kassebaum  
Jeffords  
Coats  
Gregg  
Frist  
DeWine  
Ashcroft  
Gorton  
Faircloth  
Pell  
Harkin  
Wellstone

NAYS

Kennedy  
Dodd  
Simon  
Mikulski

6. On May 8, Senator Mikulski offered an amendment on the supportive and nutrition services funding formula, restoring current law but updating the hold harmless requirements from 1987 to 1996. This amendment would have distributed 100 percent of the current level of appropriations under the hold harmless. This amendment failed on a roll call vote of 5 yeas and 11 nays.

YEAS

Kennedy  
Pell  
Dodd  
Simon  
Mikulski

NAYS

Kassebaum  
Jeffords  
Coats  
Gregg  
Frist  
DeWine  
Ashcroft  
Gorton  
Faircloth  
Harkin  
Wellstone

### III. EXPLANATION OF THE LEGISLATION AND COMMITTEE VIEWS

The Older Americans Act provides funding to the network of State and local agencies and providers which advocate, coordinate, and deliver services to our rapidly aging population. The act is based on the concept of partnership between the providers and participants, providers and the local community, and local communities and the State. This reauthorization strives to build upon the foundation of the legislation and improve the programs so that they will move forward into the 21st century.

## NATIONAL PURPOSE

The purpose of this act is to support and promote the efforts of older Americans to live independently in their own homes and as part of their local communities. The bill intends that public funding and private contributions should expand programs incorporated in the act including supportive services and enhancing nutrition programs. The core objectives of this legislation focus on the goals of self-care by older persons, eliminating social and economic barriers, encouraging a range of care options, and supporting seniors' ability to support themselves financially through employment opportunities.

## RESTRUCTURING THE ACT WHILE PRESERVING CORE FUNCTIONS

The committee bill has restructured the act according to the key components of the network on aging in four titles: Title I, core objectives of the act and responsibilities of the Administration on Aging (AOA); Title II, functions and responsibilities of State programs on aging; Title III, functions and responsibilities of local programs on aging; and Title IV, functions and responsibilities of Native American programs on aging. Current law contains 20 separate authorizations of appropriations. S. 1643 reduces these to nine separate authorizations of appropriations. The committee believes that reducing the number of programs will simplify State and area agency on aging operations and will eliminate unnecessary administrative burdens. In addition, the bill reduces Federal requirements for State and area agencies on aging in order to provide these agencies with maximum flexibility and to be responsive to the concerns about increased responsibilities in recent years without corresponding increases in funding.

At the same time, however, the committee has recognized that it is critical to retain as part of the act the core functions of State and area agencies on aging. Therefore, the bill preserves the functions of State and area agencies, making them responsible for the planning of, coordination of, and advocacy for programs and services for older persons. These functions have been essential responsibilities of the aging network since its creation, and the committee intends that the network continue to focus on these activities. The bill continues to require that State agencies on aging be responsible for planning, policy development, coordination, priority setting, and evaluation of activities related to the act's authorized programs. In addition, the bill requires that both State and area agencies serve as effective and visible advocates for older persons by reviewing and commenting on policies that affect them at the State and community levels.

## COORDINATION OF PROGRAM RESOURCES

As noted, the committee intends that the aging network will continue to emphasize its traditional role of coordination of resources on behalf of older persons while expanding efforts to work closely and in cooperation with other adult services in the State, such as the title XX social services block grant program, protection and advocacy activities for persons with disabilities, and adult protective services program. Increased coordination with programs such as

Medicaid can only benefit our seniors. The State planning process provides assurances that the State will make demonstrable efforts to continue its role in coordination of services. This is especially critical in this era of dwindling resources.

The committee recognizes the importance of the development of a coordinated public transportation system to maximize the efficient and effective mobility of older persons and others most in need of assistance. It is the committee's understanding that outreach and coordination efforts have begun between certain transportation providers which serve the disabled and aging communities. The committee encourages these efforts to continue and expand and encourages States to become involved in such efforts through communication with Metropolitan Planning Organizations (MPOs) and other transportation planning entities within each State.

#### NUTRITION AND SUPPORTIVE SERVICE PROGRAMS

The committee recognizes that malnutrition in our elderly population is a national problem and understands the importance of the nutrition and supportive services authorized under the act. A paper issued by the American Academy of Family Physicians, the American Dietetic Association, and the National Council on the Aging, Inc., points out that: "Older Americans, due to many environmental, social, economic and physical changes of aging, are at disproportionate risk of poor nutrition that can adversely affect their health and vitality." The project goes on to note that, "Nutrition-related health problems cause considerable dysfunction and disability, decreased quality of life, and in many cases, increased morbidity and mortality. Malnourished older Americans get more infections and diseases; their injuries take longer to heal; surgery on them is riskier; and their hospital stays are longer and more expensive."

The committee has retained separate authorizations of appropriations for the supportive and nutrition services programs, but has added various provisions that give maximum flexibility to States and area agencies on aging in the operation of these programs. First, the committee has increased the authority of States to transfer funds between supportive and nutrition services. Under the bill, States are allowed to transfer up to 25 percent of their separately allotted funds for supportive and nutrition services between these two allotments. If a State can justify the need for additional transfer authority, it may request a waiver from the Assistant Secretary for Aging to transfer an additional 25 percent of funds between these allotments. In addition, the bill allows a State to delegate this transfer authority to area agencies on aging.

The committee has also eliminated separate authorizations of appropriations for the congregate and home-delivered nutrition programs. Recent trends in the nutrition services program indicate that funding for the two separate programs have become very closely aligned. The committee notes that home delivered meals now represent almost half of all meals served. In fiscal year 1980, home-delivered meals represented only 22 percent of all meals served; in fiscal year 1994, they represented 45 percent of all meals served. The increase has occurred as a result of increased funding

for the home-delivered nutrition program as well as State efforts to meet the needs of the frail elderly living in their own homes. In addition, the committee notes that States frequently transfer funds from the congregate nutrition program to the home-delivered program. In fiscal year 1995, for example, 47 States transferred funds in this way. In view of these factors, the committee believes that there is no longer any need to have an artificial barrier between these programs. However, the bill does require States and area agencies on aging to assure that, in determining the need for nutrition services, they give appropriate consideration to the need for both congregate and home-delivered nutrition services.

Current law also authorizes an appropriation for a complementary nutrition assistance program administered by the U.S. Department of Agriculture (USDA). Resources appropriated to this program are distributed to States under a prescribed per meal reimbursement rate either in the form of cash or commodities. Most States opt for cash reimbursement; in fiscal year 1995, close to 97 percent of the funds appropriated were distributed in the form of cash. While the committee is supportive of the transfer of the administration of the USDA program to AOA, as suggested by the Administration, the committee wants an assurance from the appropriators that the program will continue to be funded. Until this assurance is obtained, however, the committee will not change the Federal administration of the program.

In other efforts to provide more flexibility to States and to reduce the number of programs, the committee has consolidated funding authorities that are now contained in the title VII provisions of the act into an expanded supportive services program. Separate authorizations of appropriations for outreach, counseling, and assistance for insurance and public benefits and for legal assistance are consolidated into the supportive services program. At the same time, the bill continues to require that States provide emphasis to these services. The bill requires State agencies to assure that each area agency expend a specific percentage of its supportive services and centers funds, as determined by the State, for legal assistance. Similarly, State agencies are required to assure that each area agency carry out a program for outreach, counseling, and assistance for older persons to obtain insurance and public benefits, and the area agency must expend a specific percentage of its supportive services and centers funds, as determined by the State, for these services.

The committee has retained the current law requirement allowing States the discretion to fund programs for the prevention of elder abuse, neglect, and exploitation under the supportive services program. Because a major share of support for State adult protective services programs comes from sources other than the act, the committee has left to State agencies on aging the decision as to whether they will provide for elder abuse, neglect, and exploitation programs. However, the bill requires that when State agencies choose to use supportive services funding for this purpose, they stipulate how much each area agency must expend for this service from funds allotted for supportive services.

## COST SHARING

S. 1643 provides clear authority to States permitting them to institute cost-sharing programs on a sliding scale for all services delivered under the act except information and assistance, outreach, benefits counseling, case management, the long-term care ombudsman program, and other protective services. The limited voluntary contribution policy in current law has proven to be a valuable asset in expanding the dollars that are available to serve our older population, allowing either more seniors to be served or a greater number of services to be offered to those in need.

However, it must be noted that these cost-sharing provisions also state that older individuals may not be denied a service because they either are unable or unwilling to participate in a cost-sharing arrangement. A specific prohibition is included on imposing cost-sharing requirements on persons with an income lower than 150 percent of the Federal poverty level. The cost-sharing provisions are to be based on an individual's self-declaration of income. While the bill continues to permit seniors to make voluntary contributions as well, this State flexibility will add a new dimension to services delivered under the act, especially the nutrition programs which function as a vital lifeline to seniors around the country. This option for States will allow them to choose how they can best reach out and meet the needs of all those older persons who require this assistance, whether it be for social, physical, or economic reasons.

Expansion of cost sharing has long been encouraged by many States as well as local level providers. Not only will these provisions encourage more contributions, which then can be parlayed into more services, but this authority will permit States to further coordinate programs at the State level that have such requirements. A 1989 GAO report (*In-Home Services for the Elderly, Cost Sharing Expands Range of Services Provided and Population Served*) found that 36 States had mandatory cost sharing for a variety of aging-related social services. This report recommended that the act be amended to specifically authorize mandatory cost sharing for in-home services, with certain exceptions.

In 1990, the Inspector General of Health and Human Services released a report (*Cost Sharing for Older Americans*) stating that 40 States had mandatory and/or voluntary cost sharing for State-supported social service programs and finding that cost sharing was widely viewed as a positive factor. A 1991 report issued by the House Select Committee on Aging (*Cost Sharing for the Elderly: A Survey of Current Incidence and Practice*) found 24 States had mandatory cost sharing, most often applied to in-home services. The greatest advantage to cost sharing that was cited was the ability to expand services delivered; the greatest negative was the administrative burden associated with fee collection.

Witnesses before the Subcommittee on Aging testified that the current environment of growing need and greater restrictions on the availability of public funding translates into stronger support than ever for expanded cost-sharing authority. These individuals have the opportunity on a daily basis to see how such funds supplement the limited program dollars, how more seniors can be served, and how making a contribution toward the cost of the service

means more of our older Americans can maintain their pride and dignity while receiving the help they may need. The committee wants to emphasize that it recognizes that the individuals who need the assistance of services provided under this act do not always need the help because of personal financial pressures. This is not a “welfare” bill in the economic sense. This act is designed to contribute to the welfare—the well-being—of our aging population.

#### STATE LONG-TERM CARE OMBUDSMAN PROGRAM

In view of the important role that the State Long-Term Care Ombudsman Program plays on behalf of the frail elderly in long-term care facilities and as part of the aging network, the committee has retained a separate authorization of appropriations for this program under subtitle B of title II. The committee intends that partial funding to support the program continue to be appropriated under this separate authorization. However, because the committee recognizes that most of the act’s funding for ombudsman services comes from the supportive services and centers program, the bill also authorizes services provided through the State long-term care ombudsman program under the title III supportive services program. The committee does not intend that the separate authorization of appropriations under subtitle B will in any way limit State decisions to fund this program from funds made available under the supportive services program.

The bill retains the current law requirement that in order to be eligible for funds, a State must establish and operate an Office of the State Long-Term Care Ombudsman and that it be headed by an Ombudsman who will serve on a full-time basis. In addition, the committee has retained key components of the program that are part of current law. These include requirements that long-term care facility residents have regular and timely access to ombudsman services and that they receive timely responses to complaints. It also requires that the State ensure that program representatives have access to facilities, residents, and resident medical and social records (with consent of the resident or his or her legal representative), and licensing and certification records of the State, among other documents. The bill also retains current-law requirements that the State agency ensure that there is no conflict of interest in the designation of the Ombudsman and that adequate legal counsel is available to protect the Ombudsman in the performance of official duties. The State is required to assure that interference with the performance of official duties of the Ombudsman is unlawful and to prohibit retaliation by long-term care facilities when a complaint is filed. In addition, authority for the State Ombudsman to designate an entity as a local ombudsman is retained.

The committee would like to emphasize that coordination of ombudsman services needs to be recognized as an important component of this program. State Ombudsmen should coordinate their efforts with those of other State agencies, such as State licensing and certification agencies that assess nursing facilities and health care personnel, as well as State Medicaid offices, to avoid duplication of investigatory duties. The committee hopes that this will also lead to a sharing of expertise, especially in light of the large volunteer force employed by the ombudsman program. The committee also



hopes that the Ombudsmen will strive to maintain the quality and integrity of this program in their services as advocates in matters which may adversely affect the well-being of seniors residing in long-term care facilities.

#### RESEARCH AND DEMONSTRATION GRANTS

In an effort to preserve the aspects of this program that are producing the best innovations on ways to effectively deliver services under the act, the committee retained a separate line item for research and demonstration grants. This line item was not funded by the appropriators in fiscal year 1996, and the committee understands the need to maximize resources and make reasonable reductions in Federal spending. The committee hopes that appropriate funding will be restored to this important program; the legislation ensures that the funds will be spent on projects designed to bolster the services identified as appropriate by this act.

#### SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

As it is the intent of the committee to institute the reform of the Senior Community Service Employment Program (SCSEP) in program year 1996, which began July 1, 1996, and the rest of the reauthorization reforms at the beginning of fiscal year 1997, which begins October 1, 1996, the first section of S. 1643 should be read as an amendment to title V of current law. The systemic reform of the OAA through its reauthorization begins with title I of this legislation. (The SCSEP reform provisions will be discussed in detail later in this report.)

We agree wholeheartedly with the intent behind programs such as SCSEP to serve the employment and training needs of older workers. Older workers have a strong voice at the State and local levels in ensuring that their needs are met, and we expect that governors and local elected officials will be responsive to those needs. In addition, we believe that by giving States the flexibility they are seeking for reform, and by eliminating Federal overhead, more resources will be available to States for serving older workers. However, the committee also concurs with the GAO that it is critical that program administration be streamlined and that these funds be directed into services that will more effectively address the needs of seniors.

Under the committee bill, the SCSEP program remains a distinct component of the act, with a specific authorization of appropriations. The Federal administration of the program is moved from the Department of Labor (DOL) to the AOA. However, in the context of the broader coordination of programs under the act, a separate title for SCSEP has been eliminated. Instead the program is incorporated into the bill's State programs. It is the intent of the committee to improve this program by allowing it to be run by entities much closer to their constituencies than the current Washington-based structure headed by DOL. All funds will be distributed directly to the States, rather than continuing the practice of giving the majority of the funds to 10 select organizations. States will then have the authority to competitively award funding to a variety of types of organizations, including public or private nonprofits, area agencies on aging, tribal organizations, or political subdivi-

sions of the States, to run the SCSEP services within that State. The State may choose how to structure the program to best meet the diversity of needs that may exist within their population.

The issues driving this change to the SCSEP program were brought to light by two GAO reports. A February 1994 report (*Department of Labor: Noncompetitive, Discretionary Grants*) discussed the use of the DOL Procurement Review Board (PRB), which functions as a central review point for all grant awards above \$25,000. The report also noted that DOL has a requirement in the case of sole-source grants that program officials and agency heads disclose any relationships they may have with potential grant recipients. In their response to the draft report in October 1993, DOL itself points out that the SCSEP program is exempt from the normal departmental procedures applied to all other similar grants.

Responding to further congressional concern about this program, GAO issued a second report in November 1995 (*Department of Labor: Senior Community Service Employment Program Delivery Could Be Improved Through Legislative and Administrative Actions*) that examined SCSEP carefully and made a number of recommendations on how the program could be improved under the act. This report is the basis for many changes in the reauthorization.

One of the central issues addressed by this bill is the spending priorities of grant recipients running employment programs for our older workers. Presently, DOL regulations require that only 75 percent of these funds be expended on enrollee wages and fringe benefits. The act specifically limits the use of Federal funds for administering programs at 13.5 percent; program sponsors are permitted to apply for a waiver to spend up to 15 percent. The remaining 10 percent is generally spent on other enrollee costs (OEC), which may include items such as physical examinations, transportation, counseling, the purchase of incidental items necessary for the enrollees' participation, and job training costs.

The committee believes that a greater share of the program funds must be returned to the program participants, rather than spent by organizations for administrative expenditures. Therefore, the bill requires that no more than 10 percent of program funds distributed to a State be spent on administration (15 percent in small States), directing more funds into wages and fringe benefits for those older persons who are working in SCSEP jobs. This will expand services to seniors. States like Maryland have proven that spending Federal funds on the administration of the SCSEP programs is not the way to maximize these limited dollars; they spend minimal Federal funds on administering their State program, choosing to supplement SCSEP funds with State revenue.

In addition to administrative expenditures, the bill addresses the use of Federal funds for OEC. The bill defines the items that can be classified as OEC and those that qualify as administrative expenses, to end any confusion or ambiguity that may exist on the part of current, or new, program sponsors. These definitions are based on 1976 final regulations issued by the DOL. The bill, again, emphasizes that the priority for Federal funds being expended under this program must be on wages and fringe benefits; OEC expenses, combined with administrative expenditures, may not

consume more than 20 percent of the total SCSEP grant. Waivers, however, may be granted to increase the amount expended on OEC by an additional 5 percent if the State or sponsor running the program demonstrated a 30 percent or higher transition rate into unsubsidized employment the previous year.

The committee recognizes that training of senior citizens for potential private sector employment is an important function of the Senior Community Service Employment Program. Furthermore, training and then private sector job placement should be viewed as a way to expand opportunities for seniors to participate in the SCSEP program. Toward that goal, the committee has made a greater percentage of program dollars available for training through the waiver for additional OEC expenditures in situations where training and private sector job placement prove to be the expertise of the SCSEP program sponsor.

The bill also defines a standardized measure for a "successful" transition into an unsubsidized placement by a program enrollee. Each of the current 10 national organizations, as well as the States, has in the past chosen to define this measure differently. DOL issued a directive for the 1995 program year defining unsubsidized placement, which all program sponsors have been asked to follow. This definition has been codified in this bill.

The bill's SCSEP provisions also contain an amendment which encourages program sponsors to spend a portion of their funds on carrying out agreements with private businesses. This provision is modeled on a similar provision in current law. The bill permits States to expend up to 5 percent of their total distribution on such agreements; these agreements would be funded by a 50/50 split between Federal funds and either State or private funds. This provides an opportunity for more participants to transition into private sector jobs and further emphasizes the committee's desire to promote public/private partnerships that will support the effort to keep our senior citizens independent and self-sufficient.

#### NATIVE AMERICAN PROGRAMS

The committee has retained a separate title for programs for Native Americans because of the unique status of Native Americans. The bill has modified the provision in current law that sets aside funds for Native Hawaiian organizations in efforts to reduce the number of separate programs under the act. Grants continue to be made by the Assistant Secretary, but under a streamlined administrative process.

#### INTERSTATE FUNDING FORMULAS

As is often the case with any changes in Federal law regarding funding formulas, the interstate funding formulas proposed in this legislation have been the subject of a great deal of controversy. It has been the intention of the committee throughout the process to ensure that the formulas in this bill are designed to accomplish several things: to distribute the funds in the fairest manner possible, based on actual, rather than perceived, need; to incorporate recommendations that have been made by respected entities, such as the GAO, following careful study of the factors involved; and to include factors which guarantee that the distributions are being

calculated by AOA on the most current data available. The committee understands that the lack of funding equity that has occurred has been a result of the “hold harmless” provisions that have been included in the law over the years.

*Nutrition and supportive services*

The formula incorporated into the bill by amendment gives weight to various age cohorts, a measure found to indicate the portion of the “elderly in-need” (EIN), and the State revenue base, measured by the relative total taxable resources compared to their relative EIN. The EIN is calculated by multiplying the 60+ population by a weight of .65, then giving additional weight to older age groups: 70–74 at .03; 75–79 at .08; 80–84 at .09; and 85+ at .15. The EIN then is compared to a State’s relative total taxable resources, so that States with a lower resource base would receive a higher allotment. The formula includes a Federal floor and ceiling, and restrictions on annual gains of 3.75 percent or losses of 4 percent. The formula retains the small-State minimum requirements. The formula is based on recommendations made by the GAO in two 1994 reports (*Older Americans Act: Title III Funds Not Distributed According to Statute*, Jan. 94, and *Older Americans Act: Funding Formula Could Better Reflect State Needs*, May 94.)

*Senior Community Service Employment Program*

The SCSEP formula in the bill is designed to address the current inequities that exist in the distribution of funds among States due, in a large part, to the 1978 “hold harmless” that prevents an equitable distribution of funds among States on the basis of actual, current levels of need. The bill eliminates the 1978 calculation that consistently results in some States being overserved and others underserved, and bases the distribution of funds solely on each States’ relative share of the 55+ population and per capita income. The formula will be phased in over 5 years, and it retains the small-State minimum requirements.

AUTHORIZING LEVELS

The draft bill originally circulated by the committee contained annual authorization levels for the first year of the reauthorization that were based upon the amounts originally approved by the Senate Committee on Appropriations for fiscal year 1996. In response to concerns expressed by members of the committee that the levels were too potentially restrictive on the programs of the act, and because of the lack of clarity as to what the final appropriations would be due to the numerous continuing resolutions that were enacted during the 104th Congress, the bill authorizes “such sums as may be necessary” for the restructured programs.

It is the committee’s understanding that the Congressional Budget Office (CBO) must base their cost estimates for the bill on historical spending rates coupled with estimations of the funds that would be necessary to provide services to the eligible and interested population. The committee once again emphasizes the expansive nature of the act. Participation is not limited to those in economic need; it is designed to support all older individuals, whether their needs are economic or social. The committee has expanded

the ability to accept private contributions for services rendered under the act and has emphasized throughout its consideration of the reauthorization the importance of public/private partnerships on all levels of participation. We need to look at the act in terms of its total contribution, through both the appropriation of Federal funds and the authority to levy private dollars, toward meeting the needs that exist. The committee recognizes the assumptions made by the CBO and, at the same time, acknowledges the fiscal constraints facing the appropriators. The committee hopes that the appropriators will give the act fair and thoughtful consideration in determining appropriate funding levels for these very important programs which support our older Americans, especially those designed to meet our elders' daily needs in the form of nutrition and supportive service programs.

#### IV. SUMMARY OF THE LEGISLATION

##### AMENDMENT TO THE OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT ACT FOR FISCAL YEAR 1996

This amendment sets forth requirements for the administration of the Older American Community Service Employment program for fiscal year 1996. It transfers responsibility for Federal administration of the program from the Department of Labor (DOL) to the Administration on Aging (AOA) in the Department of Health and Human Services (DHHS). It requires the Assistant Secretary of AOA to make grants to State and tribal organizations to provide part-time employment opportunities in community services to unemployed low-income older individuals who have poor employment prospects.

The amendment sets forth conditions that State and tribal organizations must meet to receive funds and requires that no less than 90 percent of Federal funds be used for participant wages and fringe benefits, except in small States where no less than 85 percent of Federal funds be used. It sets a limitation on the amount of funds that may be used for administration (no more than 10 percent of Federal funds). It requires that State or tribal organizations award funds for the operation of the program to entities on a competitive basis. It also authorizes funds for fiscal year 1996.

##### *Title I—General provisions*

Subtitle A of title I simplifies the purpose of the act and sets forth core objectives. It also consolidates definitions for all the act's titles.

Subtitle B of title I establishes AOA in the Office of the Secretary of DHHS. It specifies that AOA is to be headed by an Assistant Secretary for Aging. It requires the Assistant Secretary to designate employees to be responsible for administration of various programs under the act and streamlines functions of the Assistant Secretary, including authority to make grants or award contracts for research, training, and demonstration activities. Subtitle B authorizes funds for fiscal years 1997–2001 for the administration of the act; and the national toll-free telephone line; research, training, and demonstration activities; and the National Center on Elder Abuse.

Subtitle C of title I specifies formulas for allotment of funds for the State long-term care ombudsman program; the Senior Community Service Employment Program (SCSEP); and the supportive and nutrition services program. It also authorizes funds for the following service programs: State long-term care ombudsman; SCSEP; disease prevention and health promotion; supportive services and senior centers; and nutrition services. It also authorizes additional funds for nutrition services under the U.S. Department of Agriculture (USDA) and specifies that this assistance may be in the form of cash or commodities.

*Title II—State programs on aging*

Subtitle A of title II sets forth conditions for States to receive funds and State plan requirements. It requires each State to develop a State plan to be approved by the Assistant Secretary and requires that States designate area agencies on aging for each planning and service area in the State. It specifies requirements for carrying out various service programs, including legal assistance; activities to prevent elder abuse, neglect, or exploitation; and outreach, counseling and assistance services.

This subtitle also allows States to establish cost-sharing policies for older recipients of services. It sets the Federal matching percentage for administration at 85 percent. It also sets a limit on how much a State may transfer between its allotments for supportive and nutrition services.

Subtitle B of title II authorizes grants for long-term care ombudsman services and requires that a State establish an Office of the State Long-Term Care Ombudsman. It sets forth the responsibilities of the Office and requires that the Ombudsman serve on a full-time basis.

Subtitle C of title II requires the Assistant Secretary to make grants to States and tribal organizations to provide part-time employment opportunities for unemployed low-income older individuals who have poor employment prospects. It sets forth conditions that State or tribal organizations must meet to receive funds and requires that no less than 90 percent of Federal funds be used for participant wages and fringe benefits, except in small States where no less than 85 percent of Federal funds be used. It sets a limitation on the amount of funds that may be used for administration (no more than 10 percent of Federal funds). It requires that State or tribal organizations award funds for the operation of the program to entities on a competitive basis. It also transfers responsibility for Federal administration of the program from DOL to AOA.

Subtitle D of title II establishes authority for the Assistant Secretary to make grants to States for disease prevention and health promotion services and sets forth requirements for the award of funds within the State.

*Title III—Local programs on aging*

Subtitle A of title III sets forth characteristics of agencies that may be designated as area agencies and requires that an area plan on aging be submitted to the State agency on aging. It also sets forth area plan requirements, including that the plan provide sup-

portive and nutrition services as part of a comprehensive and coordinated service system.

It allows a State to administer and provide services through grants or contracts with charitable, religious or private organizations and specifies the conditions under which organizations are eligible to receive assistance.

Subtitle B of title III authorizes the Assistant Secretary to make grants for supportive services and defines these services. Subtitle C authorizes the Assistant Secretary to make grants for nutrition services and consolidates the congregate and home-delivered nutrition services programs.

*Title IV—Native American programs on aging*

This title authorizes the Assistant Secretary to make grants to Indian tribal organizations, Alaska Native organizations, and Native Hawaiian organizations. It sets forth requirements that these organizations must meet in order to receive funds and requirements for grant applications. It authorizes funds for this purpose for fiscal years 1997–2001.

V. COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 24, 1996.*

Hon. NANCY LANDON KASSEBAUM,  
*Chairman, Committee on Labor and Human Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1643, the Older Americans Amendments of 1996, as reported by the Committee on Labor and Human Resources on May 8, 1996.

Enactment of S. 1643 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1643.
2. Bill title: The Older Americans Amendments of 1996.
3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on May 8, 1996.
4. Bill purpose: The bill would reauthorize programs funded under the Older Americans Act of 1965, including federal administration, long-term care ombudsman programs, supportive services, senior centers, nutrition services, and grants to Native Americans. The bill also would transfer authority for operating the Community Service for Older Americans program to the Administration on Aging in the Department of Health and Human Services, and

would create a funding stream for disease prevention and health promotion services for the elderly.

5. Estimated cost to the Federal Government: S. 1643 would authorize such sums as may be necessary for most programs from fiscal year 1997 through fiscal year 2001. The bill also would authorize \$157 million to be transferred from the Department of Agriculture to the Department of Health and Human Services for the purpose of subsidizing the cost of nutrition programs. Enactment of the bill would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply. The estimated budgetary impact of this bill is summarized below both with and without adjusting the authorizations of appropriations for inflation in years when the amount authorized is not specified.

TABLE 1.—ESTIMATED BUDGETARY IMPACT OF S. 1643

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001
AUTHORIZATIONS OF APPROPRIATIONS WITH ADJUSTMENTS FOR INFLATION						
Spending under current law:						
Budget authority .....	1,406	0	0	0	0	0
Estimated outlays .....	1,467	545	52	0	0	0
Proposed changes:						
Authorizations of appropriations .....		3,110	3,203	3,291	3,382	3,475
Estimated outlays .....		1,973	2,892	3,250	3,340	3,431
Spending under S. 1643:						
Authorizations of appropriations .....	1,406	3,110	3,203	3,291	3,382	3,475
Estimated outlays .....	1,467	2,518	2,944	3,250	3,340	3,431
AUTHORIZATIONS OF APPROPRIATIONS WITHOUT ADJUSTMENTS FOR INFLATION						
Spending under current law:						
Budget authority .....	1,406	0	0	0	0	0
Estimated outlays .....	1,467	545	52	0	0	0
Proposed changes:						
Authorizations of appropriations .....		3,110	3,110	3,110	3,110	3,110
Estimated outlays .....		1,973	2,835	3,110	3,110	3,110
Spending under S. 1643:						
Authorizations of appropriations .....	1,406	3,110	3,110	3,110	3,110	3,110
Estimated outlays .....	1,467	2,518	2,887	3,110	3,110	3,110

The costs of this bill would fall within budget function 500.

6. Basis of estimate: Spending under S. 1643 would be subject to the availability of appropriated funds. Estimated outlays are based on the historical spending patterns of programs authorized under the Old Americans Act of 1965.

S. 1643 would authorize appropriations for fiscal years 1997 through 2001 for programs under the Older Americans Act. In general, the programs are authorized at such sums as may be necessary for fiscal years 1997–2001. When the authorization amount is not specified, CBO estimates the amount necessary to fund the programs at levels that would allow the eligible and interested population to participate. For only one program—the meal subsidy program funded by the Department of Agriculture—S. 1643 would authorize a specific amount for 1997, and such sums as may be necessary for 1998 through 2001. Tables 2 and 3 show the estimated



authorizations under two scenarios. Under the first scenario, the amount estimated for 1997 is adjusted for projected inflation thereafter. Under the second scenario, the projected authorization level is assumed to be equal to the amount estimated to be necessary for 1997. Estimated outlays assume full appropriation of the amounts authorized.

*Title I: Administrative expenses*

Title I would authorize an Administration on Aging to carry out programs authorized under the Older Americans Act. In addition, Title I would authorize a toll-free service for seniors to use to locate needed services in their area, a Center for Elder Abuse, and grants and contracts for research and demonstration projects that involve innovative approaches and best practices in services for seniors. CBO estimates that authorizations for these programs would remain at currently appropriated levels, with the exception of the research and demonstration projects. Research and demonstration projects received funding of \$27 million in fiscal year 1995 and \$3 million in 1996. CBO estimates that \$15 million would be authorized for fiscal year 1997, based on average appropriations in the past two years. Total estimated authorizations for Title I are \$35 million for fiscal year 1997, and \$192 million for fiscal years 1997–2001.

*Title II: State programs*

Title II of the bill would authorize grants to states for up to 85 percent of the costs of operating long-term care ombudsman, senior community service employment, and disease prevention and health promotion programs. CBO estimates authorizations for state programs at \$835 million for fiscal year 1997, and a total of \$4.4 billion over fiscal years 1997–2001. State program funding is detailed below.

Title II–B would establish state long-term care ombudsman programs. CBO assumed that these grants would provide each state with funds to support one state ombudsman and minor administrative expenses. In addition, CBO estimated the cost of providing local ombudsman representatives at the ratio currently recommended by the Institute of Medicine (one full time ombudsman per 2,000 long term care beds). Estimated authorizations of appropriations necessary for this type of program are \$45 million for fiscal year 1997, and \$241 million, if inflation is taken into account, over fiscal years 1997–2001.

Under Title II–C, the bill would transfer operation of the Senior Community Service Employment program from the Department of Labor to the Administration on Aging. Additionally, the bill would change the way in which funds for the program currently are distributed. Under current law, the majority of grants for this program are given to non-profit organizations. The bill would allocate all of the grants to states, which would make grants to other organizations for the purposes of providing low-income seniors with paid, part-time community service employment opportunities. The bill would define low-income seniors as those individuals 55 years and older who have income below 125 percent of the poverty rate, with special attention to be given to those individuals with poor

employment prospects. Using 1994 income data and poverty guidelines, CBO estimates that about 9 million seniors would be eligible for this subsidized employment program. However, only about 3.3 percent of this eligible population is estimated to have been looking for work in that year. If positions were to be made available to all seniors who qualify and are seeking employment, \$1.5 billion annually would be needed. However, participation in such programs is always less than the total eligible population. If future participants in the Senior Community Service Employment program were to exhibit similar characteristics to current participants, an estimated 50 percent of those eligible would participate. Accordingly, \$755 million would need to be authorized for fiscal year 1997, and about \$4 billion for fiscal years 1997–2001.

The bill would provide grants to states for the operation of disease prevention and health promotion programs under Title II–D. CBO estimates that authorizations of \$35 million would be needed in fiscal year 1997 for disease prevention programs. In deriving this estimate, CBO used the average cost per person of providing an annual disease prevention screening as a proxy for the per person expense for this subtitle. Participation was estimated at 1 percent of seniors, based on current participation in health promotion and disease prevention programs.

### *Title III: Local programs*

Title III of the bill would authorize grants for supportive services and senior centers, as well as grants to operate nutrition programs. CBO estimates a total of \$2.2 billion would be authorized for local aging programs for fiscal year 1997.

Title III–B would authorize grants to states for the provision of supportive services to be passed through to area agencies on aging. Portions of the funds authorized under Title III–B could be used for conducting ombudsman programs, and could be transferred to nutrition programs at a state's discretion. In estimating the amount to be authorized under this subtitle, CBO took into account the various types of services that could be provided, the average per person cost for each service, and historical participation rates, as well as potential participation rates as estimated by service providers. CBO estimates that \$795 million would be authorized for fiscal year 1997 under Title III–B.

Nutrition programs for the elderly are authorized under Title III–C. Under current law, nutrition programs are split into two categories: congregate meals and home-delivered meals. S. 1643 would combine these two programs under one funding stream. Currently, about 3 million seniors participate in nutrition programs under the Older Americans Act. However, surveys of nutrition service providers indicate that the need for nutrition programs, particularly for home-delivered meals, exceeds the amount provided for at current funding levels. Preliminary results of a national evaluation of elder nutrition programs show that 9 percent of congregate meal providers and 41 percent of home delivered meal providers have waiting lists. Twenty-two percent of the waiting lists for congregate meals and 5 percent of the waiting lists for home-delivered meals exceed 100 percent of the average number of daily meals served. Because not all service providers maintain waiting lists, and because wait-

ing lists do not capture all seniors who may be at nutrititional risk or who may wish to participate, these results are considered to be a lower-bound indicator for the need for nutrition services.

The state of New York estimates that about 6 percent of seniors are in need of home delivered meals because they lack the ability or assistance to prepare their own meals. If this figure is applied nationally, about 2.5 million seniors would require home delivered meal services. However, in 1994, only about 877,000 seniors received such services. If additional funds were to be made available to provide home-delivered meals for 2 million more seniors, and to alleviate the backlog for congregate meals, CBO estimates that the 1997 authorization would be about \$1.3 billion.

In addition, the bill would authorize \$157 million for fiscal year 1997 and such sums as necessary for fiscal years 1998–2001 for the meal subsidy program funded by the Department of Agriculture.

#### *Title IV: Native American programs*

Title IV of the bill would authorize grants to eligible organizations for the operation of programs that would serve Native Americans. If services similar to those authorized for non-Native Americans were to be made available for programs that would serve Native Americans, the estimated authorization of appropriations would be about \$40 million for fiscal year 1997.

Tables 2 and 3 below show the proposed changes in authorization levels by title with and without adjustments for inflation.

TABLE 2.—ESTIMATED BUDGETARY IMPACT OF S. 1643—BY TITLE AUTHORIZATIONS OF APPROPRIATIONS WITH ADJUSTMENTS FOR INFLATION

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001
Title I: Administration:					
Estimated authorization .....	35	38	39	40	41
Estimated outlays .....	22	32	38	39	40
Title II: State Programs on Aging:					
Estimated authorization .....	835	861	886	912	939
Estimated outlays .....	207	612	860	886	912
Title III: Local Programs on Aging:					
Estimated authorization .....	2,200	2,264	2,325	2,387	2,451
Estimated outlays .....	1,724	2,209	2,310	2,372	2,435
Title IV: Grants for Native American Programs on Aging:					
Estimated authorization .....	40	41	43	44	45
Estimated outlays .....	20	39	42	43	44
Total Authorizations:					
Estimated authorization .....	3,110	3,203	3,291	3,382	3,475
Estimated outlays .....	1,973	2,892	3,250	3,340	3,431

Note: Components may not sum to totals because of rounding.

TABLE 3.—ESTIMATED BUDGETARY IMPACT OF S. 1643—BY TITLE AUTHORIZATIONS OF APPROPRIATIONS WITHOUT ADJUSTMENTS FOR INFLATION

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001
Title I: Administration:					
Estimated authorization .....	35	35	35	35	35
Estimated outlays .....	22	32	35	35	35
Title II: State Programs on Aging:					

TABLE 3.—ESTIMATED BUDGETARY IMPACT OF S. 1643—BY TITLE AUTHORIZATIONS OF APPROPRIATIONS WITHOUT ADJUSTMENTS FOR INFLATION—Continued

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001
Estimated authorization .....	835	835	835	835	835
Estimated outlays .....	207	606	835	835	835
Title III: Local Programs on Aging:					
Estimated authorization .....	2,200	2,200	2,200	2,200	2,200
Estimated outlays .....	1,724	2,160	2,200	2,200	2,200
Title IV: Grants for Native American Programs on Aging:					
Estimated authorization .....	40	40	40	40	40
Estimated outlays .....	20	38	40	40	40
Total Authorizations:					
Estimated authorization .....	3,110	3,110	3,110	3,110	3,110
Estimated outlays .....	1,973	2,835	3,110	3,110	3,110

Note: Components may not sum to totals because of rounding.

7. Estimated impact on state, local, and tribal governments: S. 1643 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). The bill would reauthorize and consolidate voluntary programs that provide grants to state and tribal governments, giving them additional flexibility to allocate these funds. The bill would also make a number of changes to the Senior Community Service Employment program. First, the bill would make states responsible for administering all funds associated with the program. Currently, states participating in this program administer about 20 percent of all program funds, and national organizations such as the National Council of Senior Citizens administer the rest. In addition, the bill would change the maximum allowance for administrative expenses from 13.5 percent to 15 percent for small states and 10 percent for others. Finally, the federal share of project costs would be reduced from 90 percent to 85 percent.

8. Estimated impact on the private sector: S. 1643 does not include any mandates as defined in P.L. 104–4.

9. Estimate comparison: On April 15, 1996, CBO provided an estimate for H.R. 2570, the Older Americans Amendments of 1996. While the bills are similar, H.R. 2570 differs from S. 1643 in some respects. Notably, the House bill states levels of authorizations of appropriations for each program authorized under the bill. In addition, the House bill would include reauthorization of the Retired Senior Volunteer program, the Foster Grandparent program, and the Senior Companion program. S. 1643 does not include these programs. Total authorizations of appropriations for H.R. 2570 are \$1,489 million for fiscal year 1997.

10. Previous CBO estimate: None.

11. Estimate prepared by: Federal Cost Estimate: Christi Hawley and Dottie Rosenbaum. State and Local Cost Estimate: Marc Nicole. Private Sector Mandate Estimate: Constance Rhind.

12. Estimate approved by: Paul N. Van de Water, Assistant Director, for Budget Analysis.

## VI. REGULATORY IMPACT STATEMENT

The committee has determined that there will be a decrease in the regulatory and paperwork burden imposed by this bill.

## VII. SECTION-BY-SECTION ANALYSIS

*Section 1 (Short Title)* specifies the title of the bill as the “Older Americans Act Amendments of 1996.”

*Section 2 (Table of Contents)* sets forth the table of contents of the bill.

*Section 3 (Amendment to the Older American Community Service Employment Act for Fiscal Year 1996)* amends the Older American Community Service Employment Act (title V of the Older Americans Act), as follows.

### TITLE V—SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

*Section 501 (Short Title)* cites the title as the “Older American Community Service Employment Act.”

*Section 502 (Allotment of Funds for Fiscal Year 1996)* specifies the formula for allotment of funds for fiscal year 1996. It requires that, after a reservation of funds for tribal organizations, the remaining funds be distributed to States based on their relative share of funds allotted for fiscal year 1995. It further requires the balance of funds to be distributed according to States’ relative share of the population aged 55 and over and State per capita income. It also specifies a minimum allotment of one-half of 1 percent for States, and a minimum of one-quarter of one percent, or \$50,000, whichever is greater, for territories. It requires that funds not used by a State be reallocated to other States.

*Section 503 (Senior Community Service Employment Program)* requires the Assistant Secretary to make grants to State and tribal organizations to provide part-time employment opportunities in community services to unemployed low-income older individuals who have poor employment prospects.

This section requires that not less than 90 percent of Federal funds be used for wages and benefits for older individuals, and in small States, not less than 85 percent of funds. It allows a waiver of this requirement in certain circumstances. It places a limitation on administrative costs and allows a State or tribal organization to use a portion of funds for other participant costs. It also requires that, to the maximum extent practicable, a grantee pay administrative and other participant costs from non-Federal funds.

This section sets forth eligibility requirements for grants and requires that States and tribal organizations submit applications to the Assistant Secretary. The application must assure that funds will be used in accordance with title V requirements and will not be used to carry out a project for the construction, operation, or maintenance of a facility for sectarian religious instruction or worship. It requires States and tribal organizations to enter into agreements with public or nonprofit private agencies or organizations; political subdivisions of States; tribal organizations; and area agencies on aging.

It also allows States and tribal organizations to use up to 5 percent of Federal funds for agreements with businesses.

It requires States and tribal organizations to award funds to eligible entities on a competitive basis, and to take into consideration the demonstrated ability of the entity to provide employment to eligible individuals. It also sets forth the requirements that projects must meet in order to receive funds. These include requirements that the project: employ older individuals to provide services related to publicly owned and operated facilities or public or nonprofit private organizations; contribute to the general welfare of the community; result in an increase in employment opportunities that would not otherwise be available and not result in the displacement of currently employed workers; and assess the skills of individuals, their needs for supportive services, and their ability to perform community service employment, among other requirements.

It sets the Federal share of the cost of the project at no more than 85 percent, and requires that the non-Federal share be in cash or in-kind.

It requires that States and tribal organizations, when making a determination where projects are most needed, consult with area agencies on aging and other organizations that received funding in the prior fiscal year. It also requires that, to the maximum extent practicable, States and tribal organizations ensure that projects provide employment to older individuals who were participants on the day before the effective date of these amendments (July 1, 1996).

It also sets forth requirements regarding coordination of projects with other programs, equitable use of funds, data collection, and Federal rules on transition of participants into unsubsidized employment, among other requirements.

*Section 504 (Participants Not Federal Employees)* specifies that participants are not to be considered Federal employees. It prohibits a State or tribal organization from entering into an agreement with an entity whose employees are exempt from State workmen's compensation that is generally applicable to employees unless the entity can assure that individuals will have equal coverage.

*Section 505 (Employment Assistance and Federal Housing and Food Stamp Programs)* prohibits wages received by individuals from the program from being considered as income for purposes of determining eligibility for Federal housing and the food stamp programs.

*Section 506 (Definitions)* defines the following terms: administrative costs; community services; low-income; older individual; other participant costs; placed in unsubsidized employment; small State; State; and tribal organization.

*Section 507 (Authorization of Appropriations)* authorizes for fiscal year 1996 such sums as may be necessary. It also defines the program year cycle and allows the Secretary to extend a program year for a period of up to 60 days after the end of the program year. It also specifies technical and conforming amendments.

*Section 4 (Amendment to the Older Americans Act of 1965)* amends the Older Americans Act of 1965, as follows:

*Section 1 (Short Title)* cites this act as the "Older Americans Act of 1965."

*Section 2 (Table of Contents)* sets forth the table of contents for the act.

TITLE I—GENERAL PROVISIONS, SUBTITLE A—CORE OBJECTIVES AND DEFINITIONS

*Section 101 (Core Objectives)* sets forth the purpose of the act as follows: to fulfill the responsibility of the United States to assist older individuals to remain living independently and with dignity for as long as possible in their communities and to encourage and assist State and area agencies, and Indian tribes to concentrate resources in order to foster the development and implementation of comprehensive and coordinated systems to serve older individuals.

Core objectives specified are to: secure and maintain maximum independence and dignity in a home environment for older individuals capable of self-care with appropriate supportive and nutrition services; remove individual and social barriers to personal independence for older individuals; promote a continuum of care; foster ways for older individuals to receive managed in-home and community-based long-term care services; ensure that older individuals will be protected against abuse, neglect, and exploitation; and promote employment opportunities and community services for older individuals.

*Section 102 (Definitions)* defines the following terms: abuse, Administration, adult child with a disability and adult children with a disability; Alaska Native; Alaska Native organization; area agency on aging; Assistant Secretary; assistive technology; board and care facility; caregiver; caretaker; case management service; child; community services; comprehensive and coordinated service system; disability; elder abuse, neglect, and exploitation; exploitation; focal point; frail; greatest economic need; greatest social need; in-home services; Indian; Indian tribe; information and assistance service; insurance benefit; legal assistance; long-term care facility; low-income; Medicare supplemental policy; multipurpose senior center; Native American; Native Hawaiian; neglect; nonprofit; nutrition services; older individual; pension plan; physical harm; planning and service area; poverty line; public benefit; representative payee; Secretary; severe disability; State; State agency; supportive service; tribal organization; unit of general purpose local government.

*Subtitle B—Administration*

*Section 111 (Establishment of Administration on Aging)* establishes in the Office of the Secretary of the Department of Health and Human Services (DHHS), an Administration on Aging (AOA) which is headed by an Assistant Secretary for Aging. It requires that: the act be administered by the Administration, acting under the supervision of the Secretary; the Assistant Secretary be appointed by the President with the advice and consent of the Senate; the Assistant Secretary designate employees of the Administration who shall be responsible, under the supervision of the Assistant Secretary, for administration of the State long-term care ombudsman program, SCSEP, the nutrition services program, and Native Americans programs. This section also specifies that the person responsible for the nutrition program have expertise in nutrition and

dietary services and planning, be a registered dietitian, be a credentialed nutrition professional, or have education and training substantially equivalent to a registered dietitian or a credentialed nutrition professional.

*Section 112 (Functions of the Assistant Secretary)* specifies the duties of the Assistant Secretary. These are to: administer grants and contracts under the act; provide technical assistance to States, political subdivisions of States, and tribal organizations related to programs for older individuals; assist the Secretary regarding problems of older individuals; coordinate the planning and development by public and private agencies of programs for older individuals. It also specifies data collection responsibilities of the Assistant Secretary.

This section requires the Assistant Secretary to serve as the effective and visible advocate for older individuals within DHHS and with other departments and agencies of the Federal Government by maintaining active review and comment of Federal policies affecting older persons; establish a nationwide toll-free telephone line; and coordinate with, advise, and consult with heads of each department or agencies of the Federal Government that are proposing or administering programs related to the act. This section also requires these departments and agencies to coordinate their activities with the Assistant Secretary.

This section allows the Assistant Secretary to exercise the following powers: consult with and provide technical assistance to public or nonprofit agencies, organizations, and institutions; and provide short-term training and technical instruction.

It also allows the Assistant Secretary to make grants or award contracts to State, public or nonprofit private agencies, organizations, and institutions, and tribal organizations in order to design, test, and promote innovative ideas and best practices in programs and services for older individuals, help meet the needs for trained personnel in the field of aging, and increase the awareness of citizens of all ages of their need to assume personal responsibility for their aging. This section requires entities to submit an application to the Assistant Secretary in order to receive a grant or a contract. This section also allows the Assistant Secretary to perform evaluation activities and specifies that evaluation shall be conducted by persons not immediately involved in the administration of the programs.

This section allows the Assistant Secretary to provide for the operation of a National Center on Elder Abuse. It specifies the responsibilities of the Center.

*Section 113 (Reports)* requires the Assistant Secretary to prepare and submit to Congress an annual report on the programs, projects, and activities under the act. The report is to be submitted within 120 days after the end of each fiscal year. This section specifies the content for the annual report.

*Section 114 (Reduction of Paperwork)* requires the Assistant Secretary to reduce the paperwork required under the act and to request only essential information.

*Section 115 (Surplus Property Eligibility)* makes any State or local government agency and any nonprofit private organization



that receives Federal funds under a number of statutes eligible for surplus property.

*Section 116 (Treatment of Costs)* specifies that the costs of any activity under the act may not be treated as income or benefits for eligible individuals for the purpose of any other activity or provision of Federal or State law.

*Section 117 (Disaster Relief)* requires the Assistant Secretary to reserve for disaster assistance, an amount equal to .06 percent of the total amount appropriated for supportive and nutrition services. It allows the Assistant Secretary to provide to eligible entities supportive and nutrition services during any major disaster declared by the President. The section sets forth requirements for disaster assistance applications and unused funds.

*Section 118 (Authorization of Appropriations)* authorizes such sums as may be necessary for fiscal years 1997–2001 to carry out the act; the national toll-free telephone line; research, training, and demonstration activities; and the National Center on Elder Abuse.

#### *Subtitle C—Funding*

*Section 121 (Allotments; Federal Share)* specifies allotment methodologies for ombudsman services, the senior community service employment program, and supportive and nutrition services.

For ombudsman services, funds are allotted to States based on States' relative share of the population aged 60 and over, with a minimum allotment amount of one-half of one percent of funds appropriated.

For the senior community service employment program, after reservation of funds for Indian tribal organizations, the remaining funds are allotted to States according to their relative share of the population aged 55 years and over and State per capita income. This section phases out, over a 3-year period (fiscal years 1997–1999), the current law distribution. It specifies a minimum allotment amount of one-half of one percent of the funds appropriated for States and one-quarter of one percent for territories.

For supportive and nutrition services, funds are allotted to States based on their relative share of an “elderly in need” factor (a weighted sum of a State's relative share of 5 specified population categories of persons aged 60 and over) and the relative size of a State's taxable resources compared to the elderly in need factor. This section also specifies a number of other conditions. These are that: a State allotment must be equal to or greater than a minimum share of total appropriation; increases or decreases from a prior year's allotment are limited; an allotment that is increased due to an increase in appropriations from fiscal year 1996 to fiscal year 1997 is guaranteed an increase that is at least equal to the overall increase in appropriations in subsequent fiscal years.

This section specifies that the Federal share for supportive and nutrition services will be 85 percent of the cost of services, and requires that the non-Federal share be in cash or in kind.

This section also specifies limitations on amounts States and area agencies may use for administration of State and area plans and for the long-term care ombudsman program. It allows additional funds to be used for administration of the State plan under certain conditions.

*Section 122 (Authorization of Appropriations)* authorizes such sums as may be necessary for fiscal years 1997–2001 for the State long-term care ombudsman, SCSEP, disease prevention and health promotion, supportive services and senior centers, and nutrition services programs. It also specifies that the senior community service employment program will operate on a July 1-June 30 funding cycle.

*Section 123 (Additional Funds Available for Nutrition Services)* authorizes \$156.6 million for fiscal year 1997 and such sums as may be necessary for fiscal years 1998–2001 for the Secretary of Agriculture to provide assistance for nutrition services under title III of the act. It also specifies that 98.9 percent of assistance will be allotted to States, with the balance for programs for Native Americans under title IV. It specifies that the Secretary of Agriculture shall determine a per-meal rate equal to the amount appropriated divided by the number of meals served in the preceding year and shall allot to each State an amount equal to the per-meal rate. It specifies that a State or area agency may elect to receive reimbursement in the form of cash or commodities.

#### TITLE II—STATE PROGRAMS ON AGING, SUBTITLE A—GENERAL PROVISIONS

*Section 201 (Eligibility of States)* sets forth conditions for States to receive funds. It requires that the State designate a State agency as the sole State agency to: develop and administer the State plan; be responsible for the planning, policy development, administration, and evaluation of the State plan; serve as an effective and visible advocate for older individuals; and divide the State into distinct planning and service areas. It also requires the State agency to designate an area agency on aging for each planning and service area; take into account the views of recipients of services; develop and publish for review and comment a formula for the distribution of supportive and nutrition services; assure that the State give preference in providing services to older individuals with the greatest economic need and greatest social need, with particular attention to low-income, minority older individuals.

It requires the State agency to establish and publish due process procedures and “grandfathers” in single planning and service areas that had been designated on or before October 1, 1980, among other requirements.

*Section 202 (State Plans)* specifies State plan requirements. Among other requirements, it requires that the State plan: be submitted to the Assistant Secretary on a 2-, 3-, or 4-year period; be based on area plans; require each area agency to submit an area plan to the State agency; establish a grievance procedure for area agencies and service providers; adopt fiscal control procedures; prohibit individuals involved in designation of State or area agencies or officials of these agencies from being subject to conflicts of interest; maintain the integrity and public purpose of services and providers; establish and maintain information and assistance services; require each area agency to carry out a program for outreach, counseling, and assistance to assist older individuals obtain insurance benefits and public benefits and expend a percentage of its funds as specified in the State plan for this purpose.

It also prohibits a State or area agency from directly providing supportive services (with the exception of information and assistance, case management, and outreach) and nutrition services unless certain conditions are met. It further requires that the State plan: carry out a State long-term care ombudsman program; require each area agency to expend a percentage of its supportive services funds for legal assistance as specified in the State plan; meet certain program conditions when the State agency opts to expend funds on a program of elder abuse, neglect, and exploitation prevention; provide outreach to identify specific groups of older individuals; coordinate services for individuals with disabilities with relevant State agencies; require area agencies to coordinate community-based long-term care services for older individuals in needs of these services; prohibit funds to be used to carry out activities unrelated to the purposes of the act; provide multigenerational activities; and assure quality of services provided under the act.

This section further provides that the State may elect to require cost sharing by recipients, or require or permit area agencies to require cost sharing as long as cost sharing will not be required for certain services. These are: information and assistance, outreach, benefits counseling, case management, or ombudsman or other protective services. It also requires that: individuals with income below 150 percent of the poverty line be exempted from cost sharing; cost-sharing rates be subject to a sliding-fee scale; income be determined by self-declaration; confidentiality of older individuals is maintained; and no older individual be denied a service because of inability to pay. This section also allows for voluntary contributions.

This section sets forth procedures for approval or disapproval of the State plan, and for appeals by States. It also prohibits providers from revealing information protected by the attorney-client privilege.

*Section 203 (Planning, Coordination, Evaluation and Administration of State Plans)* establishes the Federal matching share for administration of the State plan at 85 percent and defines administrative costs. It also allows States to use funds not otherwise used for State administration for area agency administration or for services. It allows single planning and service areas to elect to pay for administration from amounts available for State agency administration or area agency administration.

This section also allows a State to transfer up to 25 percent of its allotments for supportive and nutrition services between such allotments. The Assistant Secretary may grant a waiver to allow a State to transfer an additional 25 percent of funds. It also allows a State agency to delegate to an area agency authority to transfer up to 25 percent of its funds between these allotments.

*Section 204 (Payments)* allows payments for title II and title III services to be made in advance or by reimbursement.

#### *Subtitle B—State Long-Term Care Ombudsman Program*

*Section 211 (Establishment)* requires the Assistant Secretary to make grants to States to carry out a long-term care ombudsman program. It requires that in order for a State to be eligible for a grant it must establish and operate an Office of the State Long-

Term Care Ombudsman and carry out the program through the Office. It also requires that the Office be headed by the State Long-Term Care Ombudsman who will be selected from among individuals with expertise and experience in long-term care and advocacy.

*Section 212 (Requirements for State Long-Term Care Ombudsman Program)* sets forth the duties of the Office and requires that the Ombudsman serve on a full-time basis. The Ombudsman is required to, personally or through representatives of the Office, identify, investigate and resolve complaints that are made by, or on behalf of, residents of long-term care facilities and to provide services to assist residents. Complaints may relate to action, inaction or decisions by providers, public agencies or health and social service agencies that may adversely affect the health, safety, welfare, or rights of residents.

This section further specifies the duties of the Ombudsman, including: informing residents about means of obtaining services; ensuring that residents have regular and timely access to services; representing the interests of residents before governmental agencies and seeking administrative, legal, and other remedies to protect residents; analyzing, commenting on and monitoring the development of Federal, State and local laws, rules and policies that affect residents; and providing for training of representatives of the Office, among other responsibilities.

The section allows the State agency to establish and operate the Office directly, or by contract or other arrangement with any public or nonprofit private organization, agency, or institution. It prohibits the State agency from entering into a contract or other arrangement with agencies responsible for licensing or certifying long-term care services or an association of long-term care facilities or other residential facilities.

It allows the Ombudsman to designate an entity as a local ombudsman entity and to designate an individual to represent the entity. Entities and individuals eligible to be designated are required to have demonstrated capability to carry out responsibilities of the Office, be free of conflict of interest, be public or nonprofit private entities, and meet other requirements determined by the Ombudsman. This section also sets forth the authority and responsibilities of the local ombudsmen.

This section requires the State agency to establish procedures regarding monitoring the program, confidentiality and conflict of interest policies, disclosure of files, and other procedures for operation of the program. It also requires the State agency to document operations of the program.

This section requires the State to assure that representatives of the Office have access to long-term care facilities, residents, and resident records; program representatives will not be liable for good faith performance of official duties; and willful interference with representatives of the Office will be unlawful. It also requires the State to prohibit retaliation and reprisals by a long-term care facility and to provide for appropriate sanctions in such cases.

*Subtitle C—Senior Community Service Employment Program*

*Section 221 (Short Title)* cites the subtitle as the “Older American Community Service Employment Act.”

*Section 222 (Definitions)* defines the following terms: administrative costs; other participant costs; placed in unsubsidized employment; and small State.

*Section 223 (Senior Community Service Employment Program)* requires the Assistant Secretary to make grants to State and tribal organizations to provide part-time employment opportunities in community services to unemployed low-income older individuals who have poor employment prospects.

This section requires that not less than 90 percent of Federal funds be used for wages and benefits for older individuals, and in small States, not less than 85 percent of funds. It allows a waiver of this requirement in certain circumstances. It also places a limitation on administrative costs, and allows a State or tribal organization to use a portion of funds for other participant costs. It also requires that, to the maximum extent practicable, a grantee pay for administrative and other participant costs from non-Federal funds. It defines administrative and other participant costs.

This section sets forth eligibility requirements for grants and requires that a State or tribal organization submit an annual application to the Assistant Secretary. The application must assure that funds will be used in accordance with requirements of this subtitle and will not be used to carry out a project for the construction, operation, or maintenance of a facility for sectarian religious instruction or worship. It states that the State or tribal organization is required to enter into agreements with public or nonprofit private agencies or organizations; political subdivisions of States; tribal organizations; and area agencies on aging.

It also allows a State or tribal organization to use up to 5 percent of Federal funds for agreements with businesses.

It requires State or tribal organizations to award funds on a competitive basis and take into consideration the demonstrated ability of the entity to provide employment to eligible individuals. It also sets forth requirements that organizations must meet in order to receive funds. These include requirements that the project employ older individuals to provide services related to publicly owned and operated facilities or public or nonprofit private organizations; contribute to the general welfare of the community; result in an increase in employment opportunities that would otherwise be available and not result in the displacement of currently employed workers; assess the skills of individuals, their needs for supportive services, and their ability to perform community service employment, among other requirements.

It sets the Federal share of the cost of the project at no more than 85 percent, and requires that the non-Federal share be in cash or in-kind.

It requires that a State or tribal organization, when making a determination where projects are most needed, consult with area agencies on aging and other organizations that received funding in the prior fiscal year. It also requires that, to the maximum extent practicable, a State or tribal organization ensure that projects provide employment to older individuals who were participants on the day before the effective date of section 3 of the bill (the 1996 amendments to the senior community service employment program), that is, July 1, 1996.

*Section 224 (Participants Not Federal Employees)* specifies that participants are not to be considered Federal employees. It also prohibits a State or tribal organization from entering into an agreement with an entity whose employees are exempted from workmen's compensation that is generally applicable to employees, unless the entity can assure that individuals will have equal coverage.

*Section 225 (Employment Assistance and Federal Housing and Food Stamp Programs)* prohibits funds received by individuals from the program from being considered as income for purposes of determining eligibility for Federal housing and the food stamp programs.

*Subtitle D—Disease Prevention and Health Promotion*

*Section 231 (Establishment of Grant Program)* requires the Assistant Secretary to make grants to provide disease prevention and health promotion services at congregate meal sites, through home-delivered meals programs, or at other sites. It allows a State to determine the services to be provided, except the State may not provide services that would be provided through Medicare. It also requires the State agency to give priority in awarding funds to areas of the State that are medically underserved and where there are large concentrations of older individuals with the greatest economic need.

TITLE III—LOCAL PROGRAMS ON AGING, SUBTITLE A—GENERAL PROVISIONS

*Section 301 (Eligibility of Local Organizations)* sets forth the characteristics of agencies that may be designated as area agencies on aging and establishes a preference for designation to an established office on aging under certain conditions.

*Section 302 (Area Plans)* specifies area plan requirements. Among other requirements, it requires that the area plan: be submitted to the State agency on a 2-, 3-, or 4-year period as determined by the State agency; provide, through a comprehensive and coordinated system, supportive services and nutrition services; determine the extent of need for services; evaluate the effectiveness of resources in meeting needs; make agreements with providers; promote independent living through home and community-based care; address nutrition and health promotion needs; provide advocacy and protect the rights of vulnerable older individuals; establish and maintain information and assistance services; set specific objectives for providing services to older individuals with greatest economic and social need, and those living in rural areas; use outreach to identify older individuals in need of services; provide technical assistance to providers; take into account the views of recipients; serve as an advocate and focal point for older individuals; establish an advisory council; facilitate the coordination of community-based long-term care; establish a grievance procedure for older individuals who are dissatisfied with services; meet certain program conditions when the State agency chooses to carry out a program of elder abuse, neglect, and exploitation prevention; describe in the area plan the assistance it received for supportive and nutri-

tion services and assure that such activities conform with the act's requirements.

This section also specifies conditions under which case management may be provided by the area agency and that cost-sharing requirements must be consistent with the State plan.

This section specifies procedures for withholding of funds and due process procedures in such cases.

*Section 303 (Services Provided by Charitable, Religious, or Private Organizations)* allows a State to administer and provide services through grants or contracts with charitable, religious, or private organizations. It also specifies the purpose of this section, that is, to allow religious organizations to receive awards on the same basis as other providers without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance under the program. It specifies the conditions under which such organizations are eligible to receive assistance and prohibits discrimination against such organizations.

This section requires that religious organizations retain independence from Federal, State and local governments. It defines protections for such organizations, and rights of beneficiaries who have objections to receiving services from such organizations. It also specifies nondiscrimination and fiscal accountability requirements, and limitations on use of funds.

#### *Subtitle B—Supportive services and senior centers*

*Section 311 (Program Authorized)* requires the Assistant Secretary to make grants to States for supportive services and specifies the supportive services that may be provided under title III.

#### *Subtitle C—Nutrition services*

*Section 321 (Program Authorized)* requires the Assistant Secretary to make grants to States for nutrition projects that will provide at least one meal per day. It sets forth requirements that projects must meet, including compliance with the Dietary Guidelines for Americans and with dietary allowances established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences.

### TITLE IV—NATIVE AMERICAN PROGRAMS ON AGING

*Section 401 (Grants for Services to Native Americans)* allows the Assistant Secretary to make grants to Indian tribal organizations, Alaska Native organizations, and Native Hawaiian organizations that meet requirements of title IV. Organizations are eligible to participate if they represent at least 50 older individuals and demonstrate the ability to deliver supportive and nutrition services.

*Section 402 (Application for Grants)* requires that in order to be eligible to receive a grant an organization must submit an application to the Assistant Secretary. It requires that the application assure that the organization will evaluate the need for supportive and nutrition services; use efficient methods of administration; report on activities to the Assistant Secretary; periodically evaluate the project; establish and maintain information and assistance services; and coordinate services with State and local programs

under titles II and III, among other requirements. It also allows organizations to develop population statistics in order to establish eligibility to receive grants.

This section requires the Assistant Secretary to approve any application that complies with title IV requirements and sets forth procedures to be followed if an application is not approved. The Assistant Secretary is required to approve a grant for a period of at least 12 months.

*Section 403 (Distribution of Funds Among Eligible Organizations)* requires that a grant to an eligible organization for fiscal year 1997 or subsequent years not be less than the amount awarded to such organization for fiscal year 1991. It also sets forth procedures for awards if funds appropriated for a given year exceed the fiscal year 1991 amount.

*Section 404 (Surplus Education Facilities)* requires the Secretary of the Interior to make surplus Indian or Alaska Native educational facilities, or surplus educational facilities located in Hawaii available for use as multipurpose senior centers. It also requires that in order to be eligible for such facilities, organizations must submit an application to the Secretary of the Interior.

*Section 405 (Administration)* requires the Assistant Secretary to consult with the Secretary of the Interior when issuing rules to carry out title IV.

*Section 406 (Payments)* allows payments under title IV to be made in advance or by reimbursement.

*Section 407 (Authorization of Appropriations)* authorizes such sums as may be necessary for fiscal years 1997-2001.

*Section 5 (Conforming Amendments)* sets forth conforming amendments to other legislation.

*Section 6 (References to Preceding Fiscal Year)* states that any reference to "the preceding fiscal year" refers to funds received to carry out a program, project, or activity for the preceding fiscal year.

*Section 7 (Issuance of Rules)* requires the Secretary of Health and Human Services to publish proposed rules pursuant to these amendments not later than 180 days after enactment. It also requires that final rules be issued not later than 90 days after publication of the proposed rules.

*Section 8 (Application of Amendments)* specifies that section 3 of the bill (Amendment to the Older American Community Service Employment Act for fiscal year 1996), applies to fiscal year 1996 and section 4 (Amendment to the Older Americans Act of 1965) will not apply prior to fiscal year 1997.

*Section 9 (Transfer of Functions)* transfers functions related to administration of title V of the Older Americans Act from the Department of Labor (DOL) to the Department of Health and Human Services (DHHS) and specifies procedures related to the transfer of functions.

*Section 10 (Effective Dates)* sets the effective date for these amendments, with the exceptions that follow, as the date of enactment. Most requirements regarding the transfer of the senior community service employment program from DOL to AOA are effective July 1, 1996. Amendments to the Older Americans Act and conforming amendments are effective October 1, 1996.



## VIII. ADDITIONAL VIEWS

### INTERSTATE FUNDING FORMULAS

We are also very troubled by the bill's changes in the funding formulas for SCSEP and the nutrition and social services programs. Changes were made in the formulas to address concerns raised by the GAO ("Older Americans Act: Funding Formula Could Better Reflect State Needs," US General Accounting Office, GAO/HEHS-94-41) that various hold-harmless clauses are unfair. But GAO's other recommended changes were not included. Specifically, the funding formula changes in the bill do not reflect the changing demographics and incomes of the elderly nor the differing abilities of States to raise the revenue necessary to provide those services. They also fail to take into account the differing cost of services in States.

Although the intent of the change is to base the formula on more up-to-date demographics, the effect of this change pits State against State. It will cause disruption and loss of services to tens of thousands of older persons. Some States come out winners. Others are losers. Ten States that lose under this funding formula change already receive funding at or below the national average according to the GAO. These States are: Connecticut, California, Georgia, Illinois, Maryland, Massachusetts, New Jersey, New York, Texas, and Virginia.

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## IX. MINORITY VIEWS

For over 30 years, the Older Americans Act has been the primary source of community-based services for seniors. These programs have enabled seniors to live independently and with dignity in their communities. The need for services is increasingly important with the aging of our society. Over the last decade, the number of elderly has increased 25 percent. The over-85 population has grown especially rapidly, and will continue to grow. By the year 2030, those 60 and older will more than double to 85 million, while those 85 plus will triple to 8 million. At the same time the population is aging, however, available resources are dwindling.

Senator Gregg's efforts to streamline the act to enable grantees to provide services more efficiently and cost-effectively are laudable. The legislation consolidates specific titles and enhances State and local flexibility through new waiver authority.

We worked with the majority to make several additions to the bill. These include assuring confidentiality for cost sharing of meals and clarifying that no one will be denied nutrition services based on inability to pay; giving priority to services for minority populations; and providing continued authority to the Administration on Aging for the operation of a nationwide toll-free number providing information on community elder care resources. Separate funding streams were retained for the long-term care ombudsman program and research and demonstration projects. The grant program for disease prevention and promotion was also retained.

Despite these improvements to the bill, several concerns remain that make the legislation unacceptable. These include changing the way that the Senior Community Service Employment Program (SCSEP) is run. Other concerns include inadequate funding for legal assistance services and elder abuse prevention programs.

### SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

The Senior Community Service Employment Program is one of the largest programs funded under the OAA. It is operated by nine national grantees, all 50 States and territories, and the US Forest Service under the Department of Labor. The legislation transfers operation of the program to the Administration on Aging, a move supported by the Administration and committee members.

In 1995, more than 100,000 older Americans participated in SCSEP. Participants are 55 years of age or older and have income that does not exceed 125 percent of the Federal poverty level. It is one of the most successful Federal job programs that exists today. The national sponsors have played a crucial role in developing the most effective employment, training and services program for older Americans. Their performance in placing participants in unsubsidized employment has consistently exceeded established goals and the performance of State-administered programs. In

1994, the job placement rate was 29 percent for national sponsors and 21 percent for States. National sponsors also have many years of experience in administering SCSEP.

Unfortunately, the legislation turns this successfully run program over to the States for administration without adequate Federal oversight. It eliminates the authority of the Federal Government to provide direct grants to national sponsors. Although intended to give States more control, this move will be disruptive to seniors who are already in the program and will hurt further placement of seniors in jobs.

Under the legislation, national sponsors can still compete for grants. This could turn into a “bureaucrats’s delight”. Rather than having sponsors compete for a standard national grant, the approach included in the bill could result in 50 different standards and forms. According to the Urban Institute, in 1994, the national grantees operated programs in all but three States: Nevada, North Dakota, and Utah. This approach will not improve services to senior citizens. And it will not provide better services to communities. In fact, the opposite is suggested by a recent Urban Institute study. This study states “Our analysis of possible program impacts indicate that based on current program performances, unsubsidized placements would decline, total number of individuals served would decline.” (“Analysis of the Impacts of Proposed Legislative Changes in the Senior Community Service Employment Program”, Nancy M. Pindus and Pamela A. Holcomb, Urban Institute, March 8, 1996)

A better approach to streamlining SCSEP is to retain the national sponsors but to build in accountability and performance standards. We strongly support retaining the national sponsors because they have an excellent record in administering the program. We believe national grantees—both national sponsors and States—should be held accountable to performance standards developed in consultation with the States and Federal Government. These standards should require a minimum of 20 percent job placement, fiscal accountability and annual reports on program activities. We supported an amendment to make these improvements to SCSEP and regret that it was not accepted by the committee.

Under our approach, national sponsors and States would qualify for 2-year grants and be subject to rigorous evaluation based on quantifiable performance standards. At the end of 10 months, sponsors could be evaluated. If problems were found and not corrected, the sponsor would lose the grant and be banned from the program. The program would then be opened to competition from other non-profits. It also would cap administrative costs at 25 percent. In addition, over a 5-year period, it would increase the percentage of funds that go to States from 22 percent to 35 percent and decrease the percentage going to national organizations from 78 percent to 65 percent. These changes to SCSEP would address the concerns raised in the GAO report. (“Senior Community Service Employment Program Delivery Could Be Improved Through Legislation and Administrative Actions”, U.S. General Accounting Office, GAO/HEHS-96-4, November 1995)

## ELDER RIGHTS

One of the most disheartening aspects of our society is the abuse of the elderly. Abuse of older persons has increased more than 100 percent over the last decade. One in 20 elderly Americans or roughly 1.5 million elderly are abused annually. Despite the widespread prevalence of this national tragedy, elder abuse is one of our nation's great "silent" epidemics. Elderly abuse is far less likely to be reported than child abuse. While 1 in 3 child abuse cases are reported, only 1 in 8 elder abuse cases are reported. The victims of elder abuse are frequently 75 or older, frail and more often women. They are among our most vulnerable citizens.

The legislation eliminates title VII of Elder Rights Protection Activities and folds the provisions of this title into the new title III of the bill with no separate funding (except for the ombudsman program). Under the bill, States are not required to provide any elder abuse programs. States under pressure from decreased funding can discontinue these services altogether. This program was originally created in recognition of the fact that State efforts to address a growing problem were inadequate. It is our view that States should be required to continue to provide these critical services.

## LEGAL SERVICES

The bill eliminates the mandate for a Legal Assistance program. We are disappointed that the committee rejected our amendment to assure maintenance of effort for legal services for the elderly. Legal services are a critical service under the act and assist the elderly in understanding their rights and accessing available services. Seniors frequently face diverse and complex legal problems including issues involving abuse and neglect, economic security, long-term care and guardianship. According to the American Bar Association, "For many older persons, the Older Americans Act legal assistance program provides their only access to the justice system."

## CONCLUSION

Historically, the Older Americans Act has enjoyed widespread bipartisan support. We are extremely disappointed that a program that has enjoyed such support for over 30 years has now become embroiled in controversy. It is unfortunate that the committee could not reach agreement on the outstanding issues, particularly the Senior Community Service Employment Program. Because of this, we are unable to support this bill. We are hopeful that changes can be made before consideration of the legislation on the floor of the Senate.

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## X. CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**OLDER AMERICANS ACT OF 1965**

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## OLDER AMERICANS ACT OF 1965

**[TITLE I—DECLARATION OF OBJECTIVES; DEFINITIONS]**

- [Sec. 101.** Declaration of objectives for older Americans
- [Sec. 102.** Definitions

**[TITLE II—ADMINISTRATION ON AGING]**

- [Sec. 201.** Establishment of Administration on Aging
- [Sec. 202.** Functions of Commissioner
- [Sec. 203.** Federal agency consultation
- [Sec. 203A.** Consultation with State agencies, area agencies on aging, and Native American grant recipients
- [Sec. 204.** Federal Council on the Aging
- [Sec. 205.** Administration of the Act
- [Sec. 206.** Evaluation
- [Sec. 207.** Reports
- [Sec. 208.** Joint funding of projects
- [Sec. 209.** Advance funding
- [Sec. 210.** Application of other laws
- [Sec. 211.** Reduction of paperwork
- [Sec. 212.** Contracting and grant authority
- [Sec. 213.** Surplus property eligibility
- [Sec. 214.** Nutrition education
- [Sec. 215.** Authorization of appropriations

**[TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING]****[PART A—GENERAL PROVISIONS]**

- [Sec. 301.** Purpose; administration
- [Sec. 302.** Definitions
- [Sec. 303.** Authorization of appropriations; uses of funds
- [Sec. 304.** Allotment; Federal share
- [Sec. 305.** Organization
- [Sec. 306.** Area plans
- [Sec. 307.** State plans
- [Sec. 308.** Planning, coordination, evaluation, and administration of State plans
- [Sec. 309.** Payments
- [Sec. 310.** Disaster relief reimbursements
- [Sec. 311.** Availability of surplus commodities
- [Sec. 312.** Multipurpose senior centers: recapture of payments
- [Sec. 313.** Audit
- [Sec. 314.** Rights relating to in-home services for frail older individuals

**[PART B—SUPPORTIVE SERVICES AND SENIOR CENTERS]**

- [Sec. 321.** Program authorized

**[PART C—NUTRITION SERVICE]****[SUBPART 1—CONGREGATE NUTRITION SERVICES]**

- [Sec. 331.** Program authorized

【SUBPART 2—HOME DELIVERED NUTRITION SERVICES

- 【Sec. 336. Program authorized
- 【Sec. 337. Criteria

【SUBPART 3—SCHOOL-BASED MEALS FOR VOLUNTEER OLDER INDIVIDUALS AND MULTIGENERATIONAL PROGRAMS

- 【Sec. 338. Establishment
- 【Sec. 338A. Application and selection of providers
- 【Sec. 338B. Reports

【SUBPART 4—GENERAL PROVISIONS

- 【Sec. 339. Compliance with dietary guidelines
- 【Sec. 339A. Payment requirement

【PART D—IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

- 【Sec. 341. Program authorized
- 【Sec. 342. Definition of in-home services
- 【Sec. 343. State criteria
- 【Sec. 344. Maintenance of effort

【PART E—ADDITIONAL ASSISTANCE FOR SPECIAL NEEDS OF OLDER INDIVIDUALS

- 【Sec. 351. Program authorized

【PART F—DISEASE PREVENTION AND HEALTH PROMOTION SERVICES

- 【Sec. 361. Program authorized
- 【Sec. 362. Distribution to area agencies on aging
- 【Sec. 363. Definition

【PART G—SUPPORTIVE ACTIVITIES FOR CARETAKERS WHO PROVIDE IN-HOME SERVICES TO FRAIL OLDER INDIVIDUALS

- 【Sec. 381. Program authorized
- 【Sec. 382. Definitions
- 【Sec. 383. Maintenance of effort

【TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

- 【Sec. 401. Statement of purpose
- 【Sec. 402. Administration

【PART A—EDUCATION AND TRAINING

- 【Sec. 410. Purpose
- 【Sec. 411. Grants and contracts
- 【Sec. 412. Multidisciplinary centers of gerontology

【PART B—RESEARCH, DEMONSTRATIONS, AND OTHER ACTIVITIES

- 【Sec. 420. Purpose
- 【Sec. 421. Research and development projects
- 【Sec. 422. Demonstration projects
- 【Sec. 423. Special projects in comprehensive long-term care
- 【Sec. 424. Special demonstration and support projects for legal assistance for older individuals
- 【Sec. 425. National impact activities
- 【Sec. 426. Utility and home heating cost demonstration projects
- 【Sec. 427. Ombudsman and advocacy demonstration projects
- 【Sec. 428. Consumer protection demonstration projects for services provided in the home
- 【Sec. 429. Demonstration projects for multigenerational activities
- 【Sec. 429A. Supportive services in federally assisted housing demonstration program
- 【Sec. 429B. Neighborhood senior care program
- 【Sec. 429C. Information and assistance systems development projects
- 【Sec. 429D. Senior transportation demonstration program grants
- 【Sec. 429E. Resource centers on Native American elders
- 【Sec. 429F. Demonstration programs for older individuals with developmental disabilities

[Sec. 429G. Housing demonstration programs  
 [Sec. 429H. Private resource enhancement projects  
 [Sec. 429I. Career preparation for the field of aging  
 [Sec. 429J. Pension rights demonstration projects

【PART C—GENERAL PROVISIONS

[Sec. 431. Authorization of appropriations  
 [Sec. 432. Payments of grants  
 [Sec. 433. Responsibilities of Commissioner】

【TITLE I—DECLARATION OF OBJECTIVES; DEFINITIONS

【DECLARATION OF OBJECTIVES FOR OLDER AMERICANS

【SEC. 101. The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States, of the several States and their political subdivisions, and of Indian tribes to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

【(1) An adequate income in retirement in accordance with the American standard of living.

【(2) The best possible physical and mental health which science can make available and without regard to economic status.

【(3) Obtaining and maintaining suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford.

【(4) Full restorative services for those who require institutional care, and a comprehensive array of community-based, long-term care services adequate to appropriately sustain older people in their communities and in their homes, including support to family members and other persons providing voluntary care to older individuals needing long-term care services.

【(5) Opportunity for employment with no discriminatory personnel practices because of age.

【(6) Retirement in health, honor, dignity—after years of contribution to the economy.

【(7) Participating in and contributing to meaningful activity within the widest range of civil, cultural, educational and training and recreational opportunities.

【(8) Efficient community services, including access to lowcost transportation, which provide a choice in supported living arrangements and social assistance in a coordinated manner and which are readily available when needed, with emphasis on maintaining a continuum of care for vulnerable older individuals.

【(9) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.

【(10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives, full participation in the planning and operation of community-based services and programs provided for their benefit, and protection against abuse, neglect, and exploitation.

# DEFINITIONS

SEC. 102. For the purposes of this Act—

[(1) The term “Secretary” means the Secretary of Health and Human Services, except that for purposes of title V such term means the Secretary of Labor.

[(2) The term “Commissioner” means, unless the context otherwise requires, the Commissioner of the Administration.

[(3) The term “State” means any of the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

[(4) The term “nonprofit” as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

[(5) The term “Indian” means a person who is a member of an Indian tribe.

[(6) Except for the purposes of title VI of this Act, the term “Indian tribe” means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92–203; 85 Stat. 688) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.

[(7) Except for the purposes of title VI of this Act, the term “tribal organization” means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body. In any case in which a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

[(8) The term “disability” means (except when such term is used in the phrase “severe disability”, “developmental disabilities”, “physical or mental disability”, “physical and mental disabilities”, or “physical disabilities”) a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity: (A) self-care, (B) receptive and expressive language, (C) learning, (D) mobility, (E) self-direction, (F) capacity for independent living, (G) economic self-sufficiency, (H) cognitive functioning, and (I) emotional adjustment.

[(9) The term “severe disability” means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that—



- [(A) is likely to continue indefinitely; and
- [(B) results in substantial functional limitation in 3 or more of the major life activities specified in subparagraphs (A) through (G) of paragraph (8).
- [(10) The term “assistive technology” means technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.
- [(11) The term “information and referral” includes information relating to assistive technology.
- [(12) The term “Trust Territory of the Pacific Islands” includes the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.
- [(13) The term “abuse” means the willful—
  - [(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or
  - [(B) deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.
- [(14) The term “Administration” means the Administration on Aging.
- [(15) The term “adult child with a disability” means a child who—
  - [(A) is 18 years of age or older;
  - [(B) is financially dependent on an older individual who is a parent of the child; and
  - [(C) has a disability.
- [(16) The term “aging network” means the network of—
  - [(A) State agencies, area agencies on aging, title VI grantees, and the Administration; and
  - [(B) organizations that—
    - [(i) are providers of direct services to older individuals; or
    - [(ii) are institutions of higher education; and
    - [(ii) receive funding under this Act.
- [(17) The term “area agency on aging” means an area agency on aging designated under section 305(a)(2)(A) or a State agency performing the functions of an area agency on aging under section 305(b)(5).
- [(18) The term “art therapy” means the use of art and artistic processes specifically selected and administered by an art therapist, to accomplish the restoration, maintenance, or improvement of the mental, emotional, or social functioning of an older individual.
- [(19) The term “board and care facility” means an institution regulated by a State pursuant to section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e)).
- [(20) The term “caregiver” means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law.
- [(21) The term “caretaker” means a family member or other individual who provides (on behalf of such individual or of a

public or private agency, organization, or institution) uncompensated care to an older individual who needs supportive services.

[(22) The term “case management service”—

[(A) means a service provided to an older individual, at the direction of the older individual or a family member of the individual—

[(i) by an individual who is trained or experienced in the case management skills that are required to deliver the services and coordination described in subparagraph (B); and

[(ii) to assess the needs, and to arrange, coordinate, and monitor an optimum package of services to meet the needs, of the older individual; and

[(B) includes services and coordination such as—

[(i) comprehensive assessment of the older individual (including the physical, psychological, and social needs of the individual);

[(ii) development and implementation of a service plan with the older individual to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older individual, including coordination of the resources and services—

[(I) with any other plans that exist for various formal services, such as hospital discharge plans; and

[(II) with the information and assistance services provided under this Act;

[(iii) coordination and monitoring of formal and informal service delivery, including coordination and monitoring to ensure that services specified in the plan are being provided;

[(iv) periodic reassessment and revision of the status of the older individual with—

[(I) the older individual; or

[(II) if necessary, a primary caregiver or family member of the older individual; and

[(v) in accordance with the wishes of the older individual, advocacy on behalf of the older individual for needed services or resources.

[(23) The term “dance-movement therapy” means the use of psychotherapeutic movement as a process facilitated by a dance-movement therapist, to further the emotional, cognitive, or physical health of an older individual.

[(24) The term “elder abuse” means abuse of an older individual.

(25) The term “elder abuse, neglect, and exploitation” means abuse, neglect, and exploitation, of an older individual.

[(26) The term “exploitation” means the illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain.

[(27) The term “focal point” means a facility established to encourage the maximum collocation and coordination of services for older individuals.

[(28) The term “frail” means, with respect to an older individual in a State, that the older individual is determined to be functionally impaired because the individual—

[(A)(i) is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

[(ii) at the option of the State, is unable to perform at least three such activities without such assistance; or

[(B) due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

[(29) The term “greatest economic need” means the need resulting from an income level at or below the poverty line.

[(30) The term “greatest social need” means the need caused by noneconomic factors, which include—

[(A) physical and mental disabilities;

[(B) language barriers; and

[(C) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that—

[(i) restricts the ability of an individual to perform normal daily tasks; or

[(ii) threatens the capacity of the individual to live independently.

[(31) The term “information and assistance service” means a service for older individuals that—

[(A) provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;

[(B) assesses the problems and capacities of the individuals;

[(C) links the individuals to the opportunities and services that are available;

[(D) to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate followup procedures; and

[(E) serves the entire community of older individuals, particularly—

[(i) older individuals with greatest social need; and

[(ii) older individuals with greatest economic need.

[(32) The term “institution of higher education” has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

[(33) The term “legal assistance”—

[(A) means legal advice and representation provided by an attorney to older individuals with economic or social needs; and

[(B) includes—

[(i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney; and

[(ii) counseling or representation by a nonlawyer where permitted by law.

[(34) The term “long-term care facility” means—

[(A) any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a));

[(B) any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));

[(C) for purposes of sections 307(a)(12) and 712, a board and care facility; and

[(D) any other adult care home similar to a facility or institution described in subparagraphs (A) through (C).

[(35) The term “multipurpose senior center” means a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

[(36) The term “music therapy” means the use of musical or rhythmic interventions specifically selected by a music therapist to accomplish the restoration, maintenance, or improvement of social or emotional functioning, mental processing, or physical health of an older individual.

[(37) The term “neglect” means—

[(A) the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or

[(B) the failure of a caregiver to provide the goods or services.

[(38) The term “older individual” means an individual who is 60 years of age or older.

[(39) The term “physical harm” means bodily injury, impairment, or disease.

[(40) The term “planning and service area” means an area designated by a State agency under section 305(a)(1)(E), including a single planning and service area described in section 305(b)(5)(A).

[(41) The term “poverty line” means the official poverty line (as defined by the Office of Management and Budget, and adjusted by the Secretary in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

[(42) The term “representative payee” means a person who is appointed by a governmental entity to receive, on behalf of an older individual who is unable to manage funds by reason of a physical or mental incapacity, any funds owed to such individual by such entity.

[(43) The term “State agency” means the agency designated under section 305(a)(1).

[(44) The term “supportive service” means a service described in section 321(a).

## 【TITLE II—ADMINISTRATION ON AGING

### 【ESTABLISHMENT OF ADMINISTRATION ON AGING

【SEC. 201. (a) There is established in the Office of the Secretary an Administration on Aging which shall be headed by a Commissioner on Aging. Except for title V, the Administration shall be the agency for carrying out this Act. There shall be a direct reporting relationship between the Commissioner and the Secretary. In the performance of the functions of the Commissioner, the Commissioner shall be directly responsible to the Secretary. The Secretary shall not approve or require any delegation of the functions of the Commissioner (including the functions of the Commissioner carried out through regional officers) to any other officer not directly responsible to the Commissioner.

【(b) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

【(c)(1) There is established in the Administration an Office for American Indian, Alaskan Native, and Native Hawaiian Programs.

【(2) The Office shall be headed by an Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging appointed by the Commissioner.

【(3) The Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging shall—

【(A)(i) evaluate the adequacy of outreach under title III and title VI for older individuals who are Native Americans and recommend to the Commissioner necessary action to improve service delivery, outreach, coordination between title III and title VI services, and particular problems faced by older Indians and Native Hawaiians; and

【(ii) include a description of the results of such evaluation and recommendations in the annual report required by section 207(a) to be submitted by the Commissioner;

【(B) serve as the effective and visible advocate in behalf of older individuals who are Native Americans within the Department of Health and Human Services and with other departments and agencies of the Federal Government regarding all Federal policies affecting such individuals, with particular attention to services provided to Native Americans by the Indian Health Service;

【(C) coordinate activities between other Federal departments and agencies to assure a continuum of improved services through memoranda of agreements or through other appropriate means of coordination;

【(D) administer and evaluate the grants provided under this Act to Indian tribes, public agencies and nonprofit private organizations serving Native Hawaiians;

【(E) recommend to the Commissioner policies and priorities with respect to the development and operation of programs and activities conducted under this Act relating to older individuals who are Native Americans;

【(F) collect and disseminate information related to problems experienced by older Native Americans, including information (compiled with assistance from public or nonprofit private entities, including institutions of higher education, with experience

in assessing the characteristics and health status of older individuals who are Native Americans) on elder abuse, in-home care, health problems, and other problems unique to Native Americans;

[(G) develop research plans, and conduct and arrange for research, in the field of American Native aging with a special emphasis on the gathering of statistics on the status of older individuals who are Native Americans;

[(H) develop and provide technical assistance and training programs to grantees under title VI;

[(I) promote coordination—

[(i) between the administration of title III and the administration of title VI; and

[(ii) between programs established under title III by the Commissioner and programs established under title VI by the Commissioner;

including sharing among grantees information on programs funded, and on training and technical assistance provided, under such titles; and

[(J) serve as the effective and visible advocate on behalf of older individuals who are Indians, Alaskan Native, and Native Hawaiians, in the State to promote the enhanced delivery of services and implementation of programs, under this Act and other Federal Acts, for the benefit of such individuals.

[(d)(1) There is established in the Administration the Office of Long-Term Care Ombudsman Programs (in this subsection referred to as the “Office”).

[(2)(A) The Office shall be headed by an Associate Commissioner for Ombudsman Programs (in this subsection referred to as the “Associate Commissioner”) who shall be appointed by the Commissioner from among individuals who have expertise and background in the fields of long-term care advocacy and management. The Associate Commissioner shall report directly to the Commissioner.

[(B) No individual shall be appointed Associate Commissioner if—

[(i) the individual has been employed within the previous 2 years by—

[(I) a long-term care facility;

[(II) a corporation that then owned or operated a long-term care facility; or

[(III) an association of long-term care facilities;

[(ii) the individual—

[(I) has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or long-term care service; or

[(II) receives, or has the right to receive, directly or indirectly remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; or

[(iii) the individual, or any member of the immediate family of the individual, is subject to a conflict of interest.

[(3) The Associate Commissioner shall—

[(A) serve as an effective and visible advocate on behalf of older individuals who reside in long-term care facilities, within

the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government regarding all Federal policies affecting such individuals;

[(B) review and make recommendations to the Commissioner regarding—

[(i) the approval of the provisions in State plans submitted under section 307(a) that relate to state Long-Term Care Ombudsman programs; and

[(ii) the adequacy of State budgets and policies relating to the programs;

[(C) after consultation with State Long-Term Care Ombudsmen and the State agencies, make recommendations to the Commissioner regarding—

[(i) policies designed to assist State Long-Term Care Ombudsmen; and

[(ii) methods to periodically monitor and evaluate the operation of State Long-Term Care Ombudsman programs, to ensure that the programs satisfy the requirements of section 307(a)(12) and section 712, including provision of service to residents of board and care facilities and of similar adult care facilities;

[(D) keep the Commissioner and the Secretary fully and currently informed about—

[(i) problems relating to State Long-Term Care Ombudsman programs; and

[(ii) the necessity for, and the progress toward, solving the problems;

[(E) review, and make recommendations to the Secretary and the Commissioner regarding, existing and proposed Federal legislation, regulations, and policies regarding the operation of State Long-Term Care Ombudsman programs;

[(F) make recommendations to the Commissioner and the Secretary regarding the policies of the Administration, and coordinate the activities of the Administration with the activities of other Federal entities, State and local entities, and non-governmental entities, relating to State Long-Term Care Ombudsman programs;

[(G) supervise the activities carried out under the authority of the Administration that relate to State Long-Term Care ombudsman programs;

[(H) administer the National Ombudsman Resource Center established under section 202(a)(21) and make recommendations to the Commissioner regarding the operation of the National Ombudsman Resource Center;

[(I) advocate, monitor, and coordinate Federal and State activities of Long-Term Care Ombudsmen under this Act;

[(J) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the effectiveness of services provided under section 307(a)(12) and section 712;

[(K) have authority to investigate the operation or violation of any Federal law administered by the Department of Health

and Human Services that may adversely affect the health, safety, welfare, or rights of older individuals; and

[(L) not later than 180 days after the date of the enactment of the Older Americans Act Amendments of 1992, establish standards applicable to the training required by section 712(h)(4).

#### [(FUNCTIONS OF COMMISSIONER

[SEC. 202. (a) It shall be the duty and function of the Administration to—

[(1) serve as the effective and visible advocate for older individuals within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities over all Federal policies affecting older individuals;

[(2) collect and disseminate information related to problems of the aged and aging;

[(3) directly assist the Secretary in all matters pertaining to problems of the aged and aging;

[(4) administer the grants provided by this Act;

[(5) develop plans, conduct and arrange for research in the field of aging, and assist in the establishment and implementation of programs designed to meet the needs of older individuals for supportive services, including nutrition, hospitalization, education and training services (including preretirement training, and continuing education), low-cost transportation and housing, and health (including mental health) services;

[(6) provide technical assistance and consultation to States and political subdivisions thereof with respect to programs for the aged and aging;

[(7) prepare, publish, and disseminate educational materials dealing with the welfare of older individuals;

[(8) gather statistics in the field of aging which other Federal agencies are not collecting, and take whatever action is necessary to achieve coordination of activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation and dissemination of information relevant to older individuals;

[(9) stimulate more effective use of existing resources and available services for the aged and aging, including existing legislative protections with particular emphasis on the application of the Age Discrimination in Employment Act of 1967;

[(10) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under authority of this Act;

[(11) coordinate Federal programs and activities related to such purposes;

[(12) coordinate, and assist in, the planning and development by public (including Federal, State, and local agencies) and private organizations or programs for older individuals with a view to the establishment of a nationwide network of



comprehensive, coordinate services and opportunities for such individuals;

[(13) convene conferences of such authorities and officials of public (include Federal, State, and local agencies) and non-profit private organizations concerned with the development and operation of programs for older individuals as the Commissioner deems necessary or proper for the development and implementation of policies related to the objectives of this Act;

[(14) develop and operate programs providing services and opportunities as authorized by this Act which are not otherwise provided by existing programs for older individuals;

[(15) carry on a continuing evaluation of the programs and activities related to the objectives of this Act, with particular attention to the impact of Medicare and Medicaid, the Age Discrimination in employment Act of 1967, and the programs of the National Housing Act relating to housing for older individuals and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for such individuals;

[(16) provide information and assistance to private organizations for the establishment and operation by them of programs and activities related to the objectives of this Act;

[(17) develop, in coordination with other agencies, a national plan for meeting the needs for trained personnel in the field of aging, and for training persons for carrying out programs related to the objectives of this Act, and conduct and provide for the conducting of such training;

[(18) consult with national organizations representing minority individuals to develop and disseminate training packages and to provide technical assistance efforts designed to assist State and area agencies, and service providers, on aging in providing services to older individuals with greatest economic need or individuals with greatest social need, with particular attention to and specific objectives for providing services to low-income minority individuals;

[(19) collect for each fiscal year, for fiscal years beginning after September 30 1988, directly or by contract, statistical data regarding programs and activities carried out with funds provided under this Act, including—

[(A) with respect to each type of service of activity provided with such funds—

[(i) the aggregate amount of such funds expended to provide such service or activity;

[(ii) the number of individuals who received such service or activity; and

[(iii) the number of units of such service or activity provided;

[(B) the number of senior centers which received such funds; and

[(C) the extent to which each area agency on aging designated under section 305(a) satisfied the requirements of paragraphs (2) and (5)(A) of section 306(a);

[(20) obtain from—

[(A) the Department of Agriculture information explaining the requirements for eligibility to receive benefits under the Food Stamp Act of 1977; and

[(B) the Social Security Administration information explaining the requirements for eligibility to receive supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act);

and distribute such information, in written form, to State agencies, for redistribution to area agencies on aging, to carry out outreach activities and application assistance;

[(21)(A) establish and operate the National Ombudsman Resource Center (in this paragraph referred to as the "Center"), under the administration of the Associate Commissioner for Ombudsman Programs, that will—

[(i) by grant or contract—

[(I) conduct research;

[(II) provide training, technical assistance, and information to State Long-Term Care Ombudsmen;

[(III) analyze laws, regulations, programs, and practices; and

[(IV) provide assistance in recruiting and retaining volunteers for State Long-Term Care Ombudsman programs by establishing a national program for recruitment efforts that utilizes the organizations that have established a successful record in recruiting and retaining volunteers for ombudsman or other programs; relating to Federal, State, and local long-term care ombudsman policies; and

[(ii) assist State Long-Term Care Ombudsmen in the implementation of State Long-Term Care Ombudsman programs; and

[(B) make available to the Center not less than the amount of resources made available to the Long-Term Care Ombudsman National Resource Center for fiscal year 1990;

[(22) issue regulations, and conduct strict monitoring of State compliance with the requirements in effect, under this Act to prohibit conflicts of interest and to maintain the integrity and public purpose of services provided and service providers, under this Act in all contractual and commercial relationships, and include in such regulations a requirement that as a condition of being designated as an area agency on aging such agency shall—

[(A) disclose to the Commissioner and the State agency involved—

[(i) the identity of each nongovernmental entity with which such agency has a contract or commercial relationship relating to providing any service to older individuals; and

[(ii) the nature of such contract or such relationship;

[(B) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this Act by such agency has not resulted and will not result from such contract or such relationship;

[(C) demonstrate that the quantity or quality of the services to be provided under this Act by such agency will be enhanced as a result of such contract or such relationship; and

[(D) on the request of the Commissioner or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds received or expended to provide services to older individuals;

[(23) encourage, and provide technical assistance to, States and area agencies on aging to carry out outreach to inform older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (or assistance under a State plan program under such title), medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.), and benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), of the requirements for eligibility to receive such benefits and such assistance;

[(24) establish information and assistance services as priority services for older individuals;

[(25) develop guidelines for area agencies on aging to follow in choosing and evaluating providers of legal assistance;

[(26) develop guidelines and a model job description for choosing and evaluating legal assistance developers referred to in sections 307(a)(18) and 731(b)(2);

[(27)(A) conduct a study to determine ways in which Federal funds might be more effectively targeted to low-income minority older individuals, and older individuals residing in rural areas, to better meet the needs of States with a disproportionate number of older individuals with greatest economic need and older individuals with greatest social need;

[(B) conduct a study to determine ways in which Federal funds might be more effectively targeted to better meet the needs of States with disproportionate numbers of older individuals, including methods of allotting funds under title III, using the most recent estimates of the population of older individuals; and

[(C) not later than January 1, 1994, submit a report containing the findings resulting from the studies described in subparagraphs (A) and (B) to the Speaker of the House of Representatives and the President pro tempore of the Senate;

[(28) provide technical assistance, training, and other means of assistance to State agencies, area agencies on aging, and service providers regarding State and local data collection and analysis;

[(29) design and implement, for purposes of compliance with paragraph (19), uniform data collection procedures for use by State agencies, including—

[(A) uniform definitions and nomenclature;

[(B) standardized data collection procedures;

[(C) a participant identification and description system;

[(D) procedures for collecting information on gaps in services needed by older individuals, as identified by serv-

ice providers in assisting clients through the provision of the supportive services; and

[(E) procedures for the assessment of unmet needs for services under this Act; and

[(30) require that all Federal grants and contracts made under this title and title IV be made in accordance with a competitive bidding process established by the Commissioner by regulation.

[(b) In order to strengthen the involvement of the Administration in the development of policy alternatives in long-term care and to insure that the development of community alternatives is given priority attention, the Commissioner shall—

[(1) develop planning linkages with utilization and quality control peer review organizations under title XI of the Social Security Act, with the Substance Abuse and Mental Health Services Administration and the Administration on Developmental Disabilities;

[(2) participate in all departmental and interdepartmental activities which concern issues of institutional and noninstitutional long-term health care services development;

[(3) review and comment on all departmental regulations and policies regarding community health and social service development for older individuals; and

[(4) participate in all departmental and interdepartmental activities to provide a leadership role for the Administration, State agencies, and area agencies on aging in the development and implementation of a national community-based long-term care program for older individuals.

[(c)(1) In executing the duties and functions of the Administration under this Act and carrying out the programs and activities provided for by this Act, the Commissioner, in consultation with the Director of the ACTION Agency, shall take all possible steps to encourage and permit voluntary groups active in supportive services, including youth organizations active at the high school or college levels, to participate and be involved individually or through representative groups in such programs or activities to the maximum extent feasible, through the performance of advisory or consultative functions, and in other appropriate ways.

[(2)(A) In executing the duties and functions of the Administration under this Act and in carrying out the programs and activities provided for by this Act, the Commissioner shall act to encourage and assist the establishment and use of—

[(i) area volunteer service coordinators, as described in section 306(a)(12), by area agencies on aging; and

[(ii) State volunteer service coordinators, as described in section 307(a)(31), by State agencies.

[(B) The Commissioner shall provide technical assistance to the area and State volunteer services coordinators.

[(d)(1) The Commissioner shall establish and operate the National Center on Elder Abuse (in this subsection referred to as the “Center”).

[(2) In operating the Center, the Commissioner shall—

[(A) annually compile, publish, and disseminate a summary of recently conducted research on elder abuse, neglect, and exploitation;

[(B) develop and maintain an information clearinghouse on all programs (including private programs) showing promise of success, for the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

[(C) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

[(D) provide technical assistance to State agencies and to other public and nonprofit private agencies and organizations to assist the agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the special problems of elder abuse, neglect, and exploitation; and

[(E) conduct research and demonstration projects regarding the causes, prevention, identification, and treatment of elder abuse, neglect, and exploitation.

[(3)(A) The Commissioner shall carry out paragraph (2) through grants or contracts.

[(B) The Commissioner shall issue criteria applicable to the recipients of funds under this subsection. To be eligible to receive a grant or enter into a contract under subparagraph (A), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

[(C) The Commissioner shall—

[(i) establish research priorities for making grants or contracts to carry out paragraph (2)(E); and

[(ii) not later than 60 days before the date on which the Commissioner establishes such priorities, publish in the Federal Register for public comment a statement of such proposed priorities.

[(4) The Commission shall make available to the Center such resources as are necessary for the Center to carry out effectively the functions of the Center under this Act and not less than the amount of resources made available to the Resource Center on Elder Abuse for fiscal year 1990.

[(e)(1)(A) The Commissioner shall make grants or enter into contracts with eligible entities to establish the National Aging Information Center (in this subsection referred to as the “Center”) to—

[(i) provide information about education and training projects established under part A, and research and demonstration projects, and other activities, established under part B, of title IV to persons requesting such information;

[(ii) annually compile, analyze, publish, and disseminate—

[(I) statistical data collected under subsection (a)(19);

[(II) census data on aging demographics; and

[(III) data from other Federal agencies on the health, social, and economic status of older individuals and on the services provided to older individuals;

[(iii) biennially compile, analyze, publish, and disseminate statistical data collected on the functions, staffing patterns, and funding sources of State agencies and area agencies on aging;

[(iv) analyze the information collected under section 201(c)(3)(F) by the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging, and the information provided by the Resource Centers on Native American Elders under section 429E;

[(v) provide technical assistance, training, and other means of assistance to State agencies, area agencies on aging, and service providers, regarding State and local data collection and analysis; and

[(vi) be a national resource on statistical data regarding aging;

[(B) To be eligible to receive a grant or enter into a contract under subparagraph (A), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the commissioner may require.

[(C) Entities eligible to receive a grant or enter into a contract under subparagraph (A) shall be organizations with a demonstrated record of experience in education and information dissemination.

[(2)(A) The Commissioner shall establish procedures specifying the length of time that the Center shall provide the information described in paragraph (1) with respect to a particular project or activity. The procedures shall require the Center to maintain the information beyond the term of the grant awarded, or contract entered into, to carry out the project or activity

[(B) The Commission shall establish the procedures described in subparagraph (A) after consultation with—

[(i) practitioners in the field of aging;

[(ii) older individuals;

[(iii) representatives of institutions of higher education;

[(iv) national aging organizations;

[(v) State agencies;

[(vi) area agencies on aging;

[(vii) legal assistance providers;

[(viii) service providers; and

[(ix) other persons with an interest in the field of aging.

#### 【FEDERAL AGENCY CONSULTATION

【SEC. 203. (a)(1) The Commissioner, in carrying out the objectives and provisions of this Act, shall coordinate, advise, consult with, and cooperate with the head of each department, agency, or instrumentality of the Federal Government proposing or administering programs or services substantially related to the objectives of this Act, with respect to such programs or services. In particular, the Commissioner shall coordinate, advise, consult, and cooperate with the Secretary of Labor in carrying out title V and with the ACTION Agency in carrying out this Act.

【(2) The head of each department, agency, or instrumentality of the Federal Government proposing to establish programs and services substantially related to the objectives of this Act shall consult

with the Commissioner prior to the establishment of such programs and services. To achieve appropriate coordination, the head of each department, agency, or instrumentality of the Federal Government administering any program substantially related to the objectives of the Act, particularly administering any program referred to in subsection (b), shall consult and cooperate with the Commissioner in carrying out such program. In particular, the Secretary of Labor shall consult and cooperate with the Commissioner in carrying out the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

[(3) The head of each Federal department, agency, or instrumentality of the Federal Government administering programs and services substantially related to the objectives of this Act shall collaborate with the commissioner in carrying out this Act, and shall develop a written analysis, for review and comment by the commissioner, of the impact of such programs and services on—

[(A) older individuals (with particular attention to low-income minority older individuals) and eligible individuals (as defined in section 507); and

[(B) the functions and responsibilities of State agencies and area agencies on aging.

[(b) For the purposes of subsection (a), programs related to the objectives of this Act shall include—

[(1) the Job Training Partnership Act,

[(2) title II of the domestic Volunteer Service Act of 1973,

[(3) titles XVI, XVIII, XIX, and XX of the Social Security Act,

[(4) sections 231 and 232 of the National Housing Act,

[(5) the United States Housing Act of 1937,

[(6) section 202 of the Housing Act of 1959,

[(7) title I of the Housing and Community Development Act of 1974,

[(8) title I of the Higher Education Act of 1965 and the Adult Education Act,

[(9) sections 3, 9, and 16 of the Urban Mass Transportation Act of 1964,

[(10) the Public Health Service Act, including block grants under title XIX of such Act,

[(11) the Low-Income Home Energy Assistance Act of 1981,

[(12) part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons,

[(13) the Community Services Block Grant Act,

[(14) demographic statistics and analysis programs conducted by the Bureau of the Census under title 13, United States Code,

[(15) parts II and III of title 38, United States Code,

[(16) the Rehabilitation Act of 1973,

[(17) the Development Disabilities and Bill of Rights Act, and

[(18) the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, established under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750–3766b)).

**[SEC. 203A. CONSULTATION WITH STATE AGENCIES, AREA AGENCIES ON AGING, AND NATIVE AMERICAN GRANT RECIPIENTS.**

【The Commissioner shall consult and coordinate with State agencies, area agencies on aging, and recipients of grants under title VI in the development of Federal goals, regulations, program instructions, and policies under this Act.

**【FEDERAL COUNCIL ON THE AGING**

【SEC. 204. (a)(1) There is established a Federal Council on the Aging to be composed of 15 members. Except as provided in subsection (b)(1)(A), members shall serve for terms of 3 years, ending on March 31 regardless of the actual date of appointment without regard to the provisions of title 5, United States Code. Members shall be appointed from among individuals who have expertise and experience in the field of aging by each appointing authority so as to be representative of rural and urban older individuals, national organizations with an interest in aging, business, labor, minorities, Indian tribes, and the general public. At least three of the members appointed by each appointing authority shall be older individuals. No full-time officer or employee of the Federal Government may be appointed as a member of the Council.

【(2) Members appointed to the Federal Council on the Aging established by this section prior to the date of enactment of the Older Americans Act Amendments of 1992 who are serving on such date, shall continue to serve on the Federal Council established by paragraph (1) of this subsection until member are appointed in accordance with subsection (b)(1).

【(b)(1)(A)(i) The initial members of the Federal Council on the Aging shall be appointed on April 1, 1993, as follows:

【(I) 5 members, who shall be referred to as class 1 members, shall be appointed for a term of 1 year;

【(II) 5 members, who shall be referred to as class 2 members, shall be appointed for a term of 2 years; and

【(III) 5 members, who shall be referred to as class 3 members, shall be appointed for a term of 3 years.

【(ii) Members appointed in 1994 and each third year thereafter shall be referred to as class 1 members. Members appointed in 1995 and each third year thereafter shall be referred to as class 2 members. Members appointed in 1996 and each third year thereafter shall be referred to as class 3 members.

【(B)(i) Members of each class shall be appointed in the manner prescribed by this subparagraph.

【(ii) Of the members of class 1, two shall be appointed by the President, two by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and one by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

【(iii) Of the members of class 2, two shall be appointed by the President, one by the President pro tempore of the Senate upon the recommendations of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

【(iv) Of the members of class 3 one shall be appointed by the President, two by the President pro tempore of the Senate upon the



recommendation of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the minority Leader.

[(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

[(3) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

[(4) Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at a rate not to exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

[(c) The President shall designate the Chairperson from among the members appointed to the Council. The Council shall meet at the call of the Chairperson at least quarterly.

[(d) The Council shall—

[(1) advise and assist the President on matters relating to the special needs of older individuals;

[(2) directly advise the Commissioner on matters affecting the special needs of older individuals for services and assistance under this Act;

[(3) review and evaluate, on a continuing basis, Federal policies regarding the aging and programs and other activities affecting the aging conducted or assisted by all Federal departments and agencies for the purpose of appraising their value and their impact on the lives of older individuals and of identifying duplication and gaps among the types of services provided under such programs and activities;

[(4) serve as a spokesman on behalf of older individuals by making recommendations to the President, to the Secretary, to the Commissioner, and to the Congress with respect to Federal policies regarding the aging and federally conducted or assisted programs and other activities relating to or affecting them;

[(5) inform the public about the problems and needs of the aging by collecting and disseminating information, conducting or commissioning studies and publishing the results thereof, and by issuing publications and reports; and

[(6) provide public forums for discussing and publicizing the problems and needs of the aging and obtaining information relating thereto by conducting public hearings, and by conducting or sponsoring conferences, workshops, and other such meetings.

[(e) The Council shall have staff personnel, appointed by the Chairperson, to assist it in carrying out its activities. The head of

each Federal department and agency shall make available to the Council such information and other assistance as it may require to carry out its activities.

[(f) Beginning with the year 1974 the Council shall make interim reports and an annual report of its findings and recommendations to the President not later than March 31 of each year. The President shall transmit each such report to the Congress together with his comments and recommendations.

[(g) There are authorized to be appropriated to carry out this section \$300,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

#### ADMINISTRATION OF THE ACT

[SEC. 205. (a)(1) In carrying out the objectives of this Act, the Commissioner is authorized to—

[(A) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

[(B) provide short-term training and technical instruction;

[(C) conduct research and demonstrations;

[(D) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

[(E) provide staff and other technical assistance to the Federal Council on the Aging.

[(2)(A) The Commissioner shall designate an officer or employee who shall serve on a full-time basis and who shall be responsible for the administration of the nutrition services described in subparts 1, 2, and 3 of part C of title III and shall have duties that include—

[(i) designing, implementing, and evaluating nutrition programs;

[(ii) developing guidelines for nutrition providers concerning safety, sanitary handling of food, equipment, preparation, and food storage;

[(iii) disseminating information to nutrition service providers about nutrition advancements and developments;

[(iv) promoting coordination between nutrition service providers and community-based organizations serving older individuals;

[(v) developing guidelines on cost containment;

[(vi) defining a long range role for the nutrition services in community-based care systems;

[(vii) developing model menus and other appropriate materials for serving special needs populations and meeting cultural meal preferences; and

[(viii) providing technical assistance to the regional offices of the Administration with respect to each duty described in clauses (i) through (vii).

[(B) The regional offices of the Administration shall be responsible for disseminating, and providing technical assistance regarding, the guidelines and information described in clauses (ii), (iii), and (v) of subparagraph (A) to State agencies, area agencies on aging, and persons that provide nutrition services under part C of title III.

[(C) The officer or employee designated under subparagraph (A) shall—

[(i) have expertise in nutrition and dietary services and planning; and

[(ii)(I) be a registered dietitian;

[(II) be a credentialed nutrition professional; or

[(III) have education and training that is substantially equivalent to the education and training for a registered dietitian or a credentialed nutrition professional.

[(b) In administering the functions of the Administration under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and is authorized to pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

[(c) Not later than 120 days after the date of the enactment of the Older Americans Act Amendments of 1987, the Secretary shall issue and publish in the Federal Register proposed regulations for the administration of this Act. After allowing a reasonable period for public comment on such proposed rules and not later than 90 days after such publication, the Secretary shall issue, in final form, regulations for the administration of this Act.

[(d) Not later than September 1 of each fiscal year, the Commissioner shall make available to the public, for the purpose of facilitating informed public comment, a statement of proposed specific goals to be achieved by implementing this Act in the first fiscal year beginning after the date on which such statement is made available.

[(e) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

#### [EVALUATION

[SEC. 206. (a) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, their effectiveness in targeting for services under this Act unserved older individuals with greatest economic need (including low-income minority individuals) and unserved older individuals with greatest social need (including low-income minority individuals), and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

[(b) The Secretary may not make grants or contracts under title IV of this Act until the Secretary develops and publishes general standards to be used by the Secretary in evaluating the programs and projects assisted under such title. Results of evaluations conducted pursuant to such standards shall be included in the reports required by section 207.

[(c) In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program

and project participants about the strengths and weaknesses of the programs and projects, and conduct, where appropriate, evaluations which compare the effectiveness of related programs in achieving common objectives. In carrying out such evaluations, the Secretary shall consult with organizations concerned with older individuals, including those representing minority individuals and older individuals with disabilities.

[(d) The Secretary shall annually publish summaries and analyses of the results of evaluative research and evaluation of program and project impact and effectiveness, including as appropriate, health and nutrition education demonstration projects conducted under section 307(f) the full contents of which shall be transmitted to Congress, be disseminated to Federal, State, and local agencies and private organizations with an interest in aging, and be accessible to the public.

[(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

[(f) Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

[(g)(1) Not later than June 30, 1994, the Commissioner, in consultation with the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services, shall complete an evaluation of nutrition services provided under this Act, to evaluate for fiscal years 1992 and 1993—

[(A) their effectiveness in serving special populations of older individuals;

[(B) the quality of nutrition provided by such services;

[(C) average meal costs (including the cost of food, related administrative costs, and the cost of supportive services relating to nutrition services), taking into account regional differences and size of projects;

[(D) the characteristics of participants;

[(E) the applicability of health, safety, and dietary standards;

[(F) the appraisal of such services by recipients;

[(G) the efficiency of delivery and administration of such services;

[(H) the amount, sources, and ultimate uses of funds transferred under section 308(b)(5) to provide such services;

[(I) the amount, sources, and uses of other funds expended to provide such services, including the extent to which funds received under this Act are used to generate additional funds to provide such services;

[(J) the degree of nutritional expertise used to plan and manage coordination with other State and local services;

[(K) nonfood cost factors incidental to providing nutrition services under this Act;

[(L) the extent to which commodities provided by the Secretary of Agriculture under section 311(a) are used to provide such services;

[(M) and for the 8-year period ending September 30, 1992, the characteristics, and changes in the characteristics, of such nutrition services;

[(N) differences between older individuals who receive nutrition services under section 331 and older individuals who receive nutrition services under section 336, with specific reference to age, income, health status, receipt of food stamp benefits, and limitations on activities of daily living;

[(O) the impact of the increase in nutrition services provided under section 336, the factors that caused such increase, and the effect of such increase on nutrition services authorized under section 336;

[(P) how, and the extent to which, nutrition services provided under this Act generally, and under section 331 specifically, are integrated with long-term care programs;

[(Q) the impact of nutrition services provided under this Act on older individuals, including the impact on their dietary intake and opportunities for socialization;

[(R) the adequacy of the daily recommended dietary allowances described in section 339; and

[(S) the impact of transferring funds under section 308(b)(5) and how funds transferred under such section are expended to provide nutrition services.

[(2)(A)(i) The Commissioner shall establish an advisory council to develop recommendations for guidelines on efficiency and quality in furnishing nutrition services described in subparts 1, 2, and 3 of part C of title III.

[(ii) The council shall be composed of members appointed by the Commissioner from among individuals nominated by the Secretary of Agriculture, the American Dietetic Association, the Dietary Managers Association, the National Association of Nutrition and Aging Service Programs, the National Association of Meal Programs, the National Association of State Units on Aging, the National Association of Area Agencies on Aging, and other appropriate organizations.

[(B) Not later than June 30, 1993, the Commissioner, in consultation with the Secretary of Agriculture and taking into consideration the recommendations of the council, shall publish interim guidelines of the kind described in subparagraph (A)(i).

[(3) Not later than September 30, 1994, the Secretary shall—

[(A) submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate recommendations and final guidelines to improve nutrition services provided under this Act; and

[(B) require the Commissioner to implement such recommendations administratively, to the extent feasible.

[(h) The Secretary may use such sums as may be necessary, but not to exceed \$3,000,000 (of which not to exceed \$1,500,000 shall be available from funds appropriated to carry out title III and not to exceed \$1,500,000 shall be available from funds appropriated to carry out title IV), to conduct directly evaluations under this section. No part of such sums may be reprogrammed, transferred, or used for any other purpose. Funds expended under this subsection shall be justified and accounted for by the Secretary.

## 【REPORTS

【SEC. 207. (a) Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include—

【(1) statistical data reflecting services and activities provided to individuals during the preceding fiscal year;

【(2) statistical data collected under section 202(a)(19);

【(3) an analysis of the information received under section 306(b)(2)(D) by the Commissioner;

【(4) statistical data and an analysis of information regarding the effectiveness of the State agency and area agencies on aging in targeting services to older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals, low-income individuals, and frail individuals (including individuals with any physical or mental functional impairment); and

【(5) a description of the implementation of the plan required by section 202(a)(17).

【(b)(1) Not later than March 1 of each year, the Commissioner shall compile a report—

【(A) summarizing and analyzing the data collected under titles III and VII in accordance with section 712(c) for the then most recently concluded fiscal year;

【(B) identifying significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);

【(C) discussing current issues concerning the long-term care ombudsman programs of the States; and

【(D) making recommendations regarding legislation and administrative actions to resolve such problems.

【(2) The Commissioner shall submit the report required by paragraph (1) to—

【(A) the Select Committee on Aging of the House of Representatives;

【(B) the Special Committee on Aging of the Senate;

【(C) the Committee on Education and Labor of the House of Representatives; and

【(D) the Committee on Labor and Human Resources of the Senate.

【(3) The Commissioner shall provide the report required by paragraph (1), and make the State reports required under titles III and VII in accordance with section 712(h)(1) available, to—

【(A) the Administrator of the Health Care Finance Administration;

【(B) the Office of the Inspector General of the Department of Health and Human Services;

【(C) the Office of Civil Rights of the Department of Health and Human Services;

【(D) the Secretary of Veterans Affairs; and

[(E) each public agency or private organization designated as an Office of the State Long-Term Care Ombudsman under title III or VII in accordance with section 712(a)(4)(A).

[(c) The Commissioner shall, as part of the annual report submitted under subsection (a), prepare and submit a report on the outreach activities supported under this Act, together with such recommendations as the Commissioner deems appropriate. In carrying out this subsection, the Commissioner shall consider—

[(1) the number of older individuals reached through the activities;

[(2) the dollar amount of the assistance and benefits received by older individuals as a result of such activities;

[(3) the cost of such activities in terms of the number of individuals reached and the dollar amount described in paragraph (2);

[(4) the effect of such activities on supportive services and nutrition services furnished under title III of this Act; and

[(5) the effectiveness of State and local efforts to target older individuals with greatest economic need (including low-income minority individuals) and older individuals with greatest social need (including low-income minority individuals) to receive services under this Act.

#### [(JOINT FUNDING OF PROJECTS

[SEC. 208. Pursuant to regulations prescribed by the President and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to any agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose.

#### [(ADVANCE FUNDING

[SEC. 209. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

[(b) In order to effect a transition to the advance funding method of timing appropriation action, subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

#### [(APPLICATION OF OTHER LAWS

[SEC. 210. (a) The provisions and requirements of the Act of December 5, 1974 (Public Law 93-510; 88 Stat. 1604) shall not apply

to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

[(b) No part of the costs of any project under any title of this Act may be treated as income or benefits to any eligible individual (other than any wage or salary to such individual) for the purpose of any other program or provision of Federal or State law.

#### **[REDUCTION OF PAPERWORK]**

[SEC. 211. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Commissioner, in consultation with State agencies and other appropriate agencies and organizations, shall continually review and evaluate all requests by the Administration for information under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Commissioner shall request only such information as the Commissioner deems essential to carry out the objectives and provisions of this Act and, in gathering such information, shall make use of uniform service definitions to the extent that such definitions are available.

#### **[CONTRACTING AND GRANT AUTHORITY]**

[SEC. 212. None of the provisions of this Act shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency (or in the case of a grantee under title VI, subject to the recommendation of the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Commissioner), with a profitmaking organization to carry out the provisions of this Act and of the appropriate State plan.

#### **[SURPLUS PROPERTY ELIGIBILITY]**

[SEC. 213. Any State or local government agency, and any non-profit organization or institution, which receives funds appropriated for programs for older individuals under this Act, under title IV or title XX of the Social Security Act, or under titles VIII and X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act, shall be deemed eligible to receive for such programs, property which is declared surplus to the needs of the Federal Government in accordance with laws applicable to surplus property.

#### **[SEC. 214. NUTRITION EDUCATION.]**

[The Commissioner and the Secretary of Agriculture may provide technical assistance and appropriate material to agencies carrying out nutrition education programs in accordance with section 307(a)(13)(J).

#### **[SEC. 215. AUTHORIZATION OF APPROPRIATIONS.]**

[(a) ADMINISTRATION.—For purposes of carrying out this Act, there are authorized to be appropriated for the Administration such sums as may be necessary for fiscal years 1992, 1993, 1994, and 1995.

[(b) SALARIES AND EXPENSES.—There are authorized to be appropriated for salaries and expenses of the Administration on Aging—



[(1) \$17,000,000 for fiscal year 1992, \$20,000,000 for fiscal year 1993, \$24,000,000 for fiscal year 1994, and \$29,000,000 for fiscal year 1995; and

[(2) such additional sums as may be necessary for each such fiscal year to enable the Commissioner to provide for not fewer than 300 full-time employees (or the equivalent thereof) in the Administration on Aging.

### **[(TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING**

#### **[(PART A—GENERAL PROVISIONS**

##### **[(PURPOSE; ADMINISTRATION**

**[(SEC. 301. (a)(1)** It is the purpose of this title to encourage and assist State agencies and area agencies on aging to concentrate resources in order to develop greater capacity and foster the development and implementation of comprehensive and coordinated systems to serve older individuals by entering into new cooperative arrangements in each State with the persons described in paragraph (2), for the planning, and for the provision of, supportive services, and multipurpose senior centers, in order to—

**[(A)** secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;

**[(B)** remove individual and social barriers to economic and personal independence for older individuals;

**[(C)** provide a continuum of care for vulnerable older individuals; and

**[(D)** secure the opportunity for older individuals to receive managed in-home and community-based long-term care services.

**(2)** The persons referred to in paragraph (1) include—

**[(A)** State agencies and area agencies on aging;

**[(B)** other State agencies, including agencies that administer home and community care programs;

**[(C)** Indian tribes, tribal organizations, and Native Hawaiian organizations;

**[(D)** the providers, including voluntary organizations or other private sector organizations, of supportive services, nutrition services, and multipurpose senior centers; and

**[(E)** organizations representing or employing older individuals or their families.

**[(b)(1)** In order to effectively carry out the purpose of this title, the Commissioner shall administer programs under this title through the Administration.

**[(2)** In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Transportation, the Office of Community Services, the Department of Veterans Affairs, the Substance Abuse and Mental Health Services Administration, and such other agencies and departments of the Federal Government as may be appropriate.

[(c) The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 307(a)(12) in accordance with section 712, and to individuals within such programs designated under section 712 to be representatives of a long-term care ombudsman, in order to enable such ombudsmen and such representatives to carry out the ombudsman program effectively.

#### [DEFINITIONS

[SEC. 302. For the purpose of this title—

[(1) The term “comprehensive and coordinated system” means a system for providing all necessary supportive services, including nutrition services, in a manner designed to—

[(A) facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;

[(B) develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older individuals;

[(C) use available resources efficiently and with a minimum of duplication; and

[(D) encourage and assist public and private entities that have unrealized potential for meeting the service needs of older individuals to assist the older individuals on a voluntary basis.

[(2) The term “unit of general purpose local government” means—

[(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or

[(B) an Indian tribe organization.

[(3) The term “deduction and training services” means a supportive service designed to assist older individuals to better cope with their economic, health, and personal needs through services such as consumer education, continuing education, health education, preretirement education, financial planning, and other education and training services which will advance the objectives of this Act.

[(10) The term “multipurpose senior center” means a community facility for the organization and provision of a broad spectrum of services, which shall include, but not be limited to, provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

#### [AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

[SEC. 303. (a)(1) There are authorized to be appropriated \$461,376,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, for the purpose of making grants under part B of this title (relating to supportive services and senior centers).

[(2) Funds appropriated under paragraph (1) shall be available to carry out section 712.

[(b)(1) There are authorized to be appropriated \$505,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

[(2) There are authorized to be appropriated \$120,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).

[(3) There are authorized to be appropriated \$15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, to carry out subpart 3 of part C of this title (relating to school-based meals for volunteer older individuals and multigenerational programs).

[(c) Grants made under part B, and subparts 1 and 2 of part C, of this title may be used for paying part of the cost of—

[(1) the administration of area plans by area agencies on aging designated under section 305(a)(2)(A), including the preparation of area plans on aging consistent with section 306 and the evaluation of activities carried out under such plans; and

[(2) the development of comprehensive and coordinated system for supportive services, congregate and home delivered nutrition services under subparts 1 and 2 of part C, development and operation of multipurpose senior centers, and the delivery of legal assistance.

[(d) There are authorized to be appropriated \$45,388,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, for the purpose of making grants under part D of this title (relating to in-home services).

[(e) There are authorized to be appropriated such sums as may be necessary for the fiscal years 1992, 1993, 1994, and 1995, to carry out part E (relating to special needs).

[(f) There are authorized to be appropriated \$25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, for the purpose of making grants under part F of this title (relating to periodic preventive health, health education, and promotion services).

[(g) There are authorized to be appropriated \$15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, to carry out part G (relating to supportive activities for caretakers).

#### 【ALLOTMENT; FEDERAL SHARE

【SEC. 304. (a)(1) Subject to paragraph (2) and (3) from the sums appropriated under section 303 for each fiscal year, each State shall be allotted an amount which bears the same ratio to such sums as the population of older individuals in such State bears to the population of older individuals on all States, except that (A) no State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, the United States Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than

one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; and (C) American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated for the fiscal year for which the determination is made. For the purposes of paragraph (3) and the exception contained in subparagraph (A) only, the term "State" does not include Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

[(2) No State shall be allotted less than the total amount allotted to the State under paragraph (1) of this subsection and section 308 for fiscal year 1987.

[(3) No State shall be allotted, from the amount appropriated under section 303(g), less than \$50,000 for any fiscal year.

[(4) The number of individuals aged 60 or older in any State and in all States shall be determined by the Commissioner on the basis of the most recent data available from the Bureau of the Census, and other reliable demographic data satisfactory to the Commissioner.

[(b) Whenever the Commissioner determines that any amount allotted to a State under part B or C for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, the Commissioner shall make such allotment available for carrying out such purpose to one or more other States to the extent the Commissioner determines that such other State will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's allotment (as determined under subsection (a)) for such year, but shall remain available until the end of the succeeding fiscal year.

[(c) If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 307 or the Commissioner does not approve the funding formula required under section 305(a)(2)(C), the Commissioner shall withhold the allotment of funds to such State referred to in subsection (a). The Commissioner shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan under section 307, which includes an agreement that any such payment shall be matched in the proportion determined under subsection (d)(1)(D) for such State, by funds or in-kind resources from non-Federal sources.

[(d)(1) From any State's allotment, after the application of section 308(b), under this section for any fiscal year—

[(A) such amount as the State agency determines, but not more than 10 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans;

[(B) such amount (excluding any amount attributable to funds appropriated under section 303(a)(3)) as the State agency determines to be adequate for conducting an effective om-

budsman program under section 307(a)(12) shall be available for conducting such program;

[(C) not less than \$150,000 and not more than 4 percent of the amount allotted to the State for carrying out part B, shall be available for conducting outreach demonstration projects under section 706; and

[(D) the remainder of such allotment shall be available to such State only for paying such percentage as the State agency determines, but not more than 85 percent of the cost of supportive services, senior centers, and nutrition services under this title provided in the State as part of a comprehensive and coordinated system in planning and service areas for which there is an area plan approved by the State agency.

[(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Commissioner may attribute fair market value to services and facilities contributed from non-Federal sources.

[(e) Grants made from allotments received under this title may be used for paying for the costs of providing for an area volunteer services coordinator (as described in section 306(a)(12)) or a State volunteer services coordinator (as described in section 307(a)(31)).

#### [ORGANIZATION

[SEC. 305. (a) In order for a State to be eligible to participate in programs of grants to States from allotments under this title—

[(1) the State shall, in accordance with regulations of the Commissioner, designate a State agency as the sole State agency to—

[(A) develop a State plan to be submitted to the Commissioner for approval under section 307;

[(B) administer the State plan within such State;

[(C) be primarily responsible for the planning, policy development, administration, coordination, priority setting, and evaluation of all State activities related to the objectives of this Act;

[(D) serve as an effective and visible advocate for older individuals by reviewing and commenting upon all State plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals; and

[(E) divide the State into distinct planning and service areas (or in the case of a State specified in subsection (b)(5)(A), designate the entire State as a single planning and service area), in accordance with guidelines issued by the Commissioner, after considering the geographical distribution of older individuals in the State, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance, the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in

such areas, the distribution of older individuals who are Indians residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the State which were drawn for the planning or administration of supportive services programs, the location of units of general purpose local government within the State, and any other relevant factors; and

[(2) the State agency shall—

[(A) except as provided in subsection (b)(5), designate for each such area after consideration of the view offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging for such area;

[(B) provide assurances, satisfactory to the Commissioner, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan;

[(C) in consultation with area agencies, in accordance with guidelines issued by the Commissioner, and using the best available data, develop and publish for review and comment a formula for distribution within the State of funds received under this title that takes into account—

[(i) the geographical distribution of older individuals in the State; and

[(ii) the distribution among planning and service areas of older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority older individuals;

[(D) submit its formula developed under subparagraph (C) to the Commissioner for approval;

[(E) provide assurance that preference will be given to providing services to older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals, and include proposed methods of carrying out the preference in the State plan;

[(F) provide assurances that the State agency will require use of outreach efforts described in section 307(a)(24); and

[(G)(i) set specific objectives in consultation with area agencies on aging, for each planning and service area for providing services funded under this title to low-income minority older individuals;

[(ii) provide an assurance that the State agency will undertake specific program development, advocacy, and outreach efforts focused on the needs of low-income minority older individuals; and

[(iii) provide a description of the efforts described in clause (ii) that will be undertaken by the State agency.

[(b)(1) In carrying out the requirement of subsection (a)(1), the State may designate as a planning and service area any unit of general purpose local government which has a population of 100,000 or more. In any case in which a unit of general purpose local government makes application to the State agency under the preceding sentence to be designated as a planning and service area, the State agency shall, upon request, provide an opportunity for a hearing to such unit of general purpose local government. A State may designate as a planning and service area under clause (1) of subsection (a) any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance, the effective administration of the programs authorized by this title. The State may include in any planning and service area designated under clause (1) of subsection (a) such additional areas adjacent to the unit of general purpose local government or regionals so designated as the State determines to be necessary for, and will enhance the effective administration of the programs authorized by this title.

[(2) The State is encouraged in carrying out the requirement of clause (1) of subsection (a) to include the area covered by the appropriate economic development district involved in any planning and service area designated under subsection (a)(1), and to include all portions of an Indian reservation within a single planning and service area, if feasible.

[(3) The chief executive officer of each State in which a planning and service area crosses State boundaries, or in which an interstate Indian reservation is located, may apply to the Commissioner to request redesignation as an interstate planning and service area comprising the entire metropolitan area or Indian reservation. If the Commissioner approves such an application, the Commissioner shall adjust the State allotments of the areas within the planning and Service area in which the interstate planning and service area is established to reflect the number of older individuals within the area who will be served by an interstate planning and service area not within the State.

[(4) Whenever a unit of general purpose local government, a region, a metropolitan area or an Indian reservation is denied designation under the provisions of subsection (a)(1), such unit of general purpose local government, region, metropolitan area, or Indian reservation may appeal the decision of the State agency to the Commissioner. The Commissioner shall afford such unit, region, metropolitan area, or Indian reservation an opportunity for a hearing. In carrying out the provisions of this paragraph, the Commissioner may approve the decision of the State agency, disapprove the decision of the State agency and require the State agency to designate the unit, region, area, or Indian reservation appealing the decision as a planning and service area, or take such other action as the Commissioner deems appropriate.

[(5)(A) A State which on or before October 1, 1980, had designated, with the approval of the Commissioner, a single planning and service area covering all of the older individuals in the State, in which the State agency was administering the area plan, may

after that date designate one or more additional planning and service areas within the State to be administered by public or private nonprofit agencies or organizations as area agencies on aging, after considering the factors specified in subsection (a)(1)(E). The State agency shall continue to perform the functions of an area agency on aging for any area of the State not included in a planning and service area for which an area agency on aging has been designated.

[(B) Whenever a State agency designates a new area agency on aging after the date of enactment of the Older Americans Act Amendments of 1984, the State agency shall give the right to first refusal to a unit of general purpose local government if (i) such unit can meet the requirements of subsection (c), and (ii) the boundaries of such a unit and the boundaries of the area are reasonably contiguous.

[(C)(i) A State agency shall establish and follow appropriate procedures to provide due process to affected parties, if the State agency initiates an action or proceeding to—

[(I) revoke the designation of the area agency on aging under subsection (a);

[(II) designate an additional planning and service area in a State;

[(III) divide the State into different planning and services areas; or

[(IV) otherwise affect the boundaries of the planning and service areas in the State.

[(ii) The procedures described in clause (i) shall include procedures for—

[(I) providing notice of an action or proceeding described in clause (i);

[(II) documenting the need for the action or proceeding;

[(III) conducting a public hearing for the action or proceeding;

[(IV) involving area agencies on aging, service providers, and older individuals in the action or proceeding; and

[(V) allowing an appeal of the decision of the State agency in the action or proceeding to the Commissioner.

[(iii) An adversely affected party involved in an action or proceeding described in clause (i) may bring an appeal described in clause (ii)(V) on the basis of—

[(I) the facts and merits of the matter that is the subject of the action or proceeding; or

[(II) procedural grounds.

[(iv) In deciding an appeal described in clause (ii)(V), the Commissioner may affirm or set aside the decision of the State agency. If the Commissioner sets aside the decision, and the State agency has taken an action described in subclauses (I) through (III) of clause (i), the State agency shall nullify the action.

[(c) an area agency on aging designated under subsection (a) shall be—

[(1) an established office of aging which is operating within a planning and service area designated under subsection (a);

[(2) any office or agency of a unit of general purpose local government, which is designated to function only for the pur-



pose of serving as an area agency on aging by the chief elected official of such unit;

[(3) any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only on behalf of such combination for such purpose;

[(4) any public or nonprofit private agency in a planning and service area, or any separate organizational unit within such agency, which is under the supervision or direction for this purpose of the designated State agency and which can and will engage only in the planning or provision of a broad range of supportive services, or nutrition services within such planning and service area; or

[(5) in the case of a State specified in subsection (b)(5), the State agency;

and shall provide assurance, determined adequate by the State agency, that the area agency on aging will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area or within any unit of general purpose local government designated as a planning and service area the State shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

[(d) The publication for review and comment required by paragraph (2)(C) of subsection (a) shall include—

[(1) a descriptive statement of the formula's assumptions and goals, and the application of the definitions of greatest economic or social need.

[(2) a numerical statement of the actual funding formula to be used,

[(3) a listing of the population, economic, and social data to be used for each planning and service area in the State, and

[(4) a demonstration of the allocation of funds, pursuant to the funding formula; to each planning and service area in the State.

#### [(AREA PLANS

[SEC. 306. (a) Each area agency on aging designated under section 305(a)(2)(A) shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for a two-, three-, or four-year period determined by the State agency, with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 307(a)(1). Each such plan shall—

[(1) provide, through a comprehensive and coordinated system, for supportive services, nutrition services, and, where appropriate, for the establishment, maintenance, or construction of multipurpose senior centers, within the planning and service area covered by the plan, including determining the extent of need for supportive services, nutrition services, and multipur-

pose senior centers in such area (taking into consideration, among other things, the number of older individuals with low incomes residing in such area, the number of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such area, and the number of older individuals who are Indians residing in such area, and the efforts of voluntary organizations in the community), evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of supportive services, nutrition services, or multipurpose senior center in such area, for the provision of such services or centers to meet such need;

[(2) provide assurances that an adequate proportion, as required under section 307(a)(22), of the amount allotted for part B to the planning and service area will be expended for the delivery of each of the following categories of services—

[(A) services associated with access to services (transportation, outreach, information and assistance, and case management services);

[(B) in-home services (homemaker and home health aides, visiting and telephone reassurance, chore maintenance, and supportive services for families of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and

[(C) legal assistance;

and specify annually in such plan, as submitted or as amended, in detail the amount of funds expended for each such category during the fiscal year most recently concluded;

[(3)(A) designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations referred to in paragraph (6)(E)(ii) as such focal point; and

[(B) specify, in grants, contracts, and agreements implementing the plan, the identify of each focal point so designated;

[(4) provide for the establishment and maintenance of information and assistance services in sufficient numbers to assure that all older individuals within the planning and service area covered by the plan will have reasonably convenient access to such services, with particular emphasis on linking services available to isolated older individuals and older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of individuals with such disease or disorders);

[(5)(A)(i) provide assurances that the area agency on aging will set specific objectives for providing services to older individuals with greatest economic need and older individuals with greatest social need, include specific objectives for providing services to low-income minority individuals, and include proposed methods of carrying out the preference in the area plan;

[(ii) provide assurances that the area agency on aging will include in each agreement made with a provider of any service under this title, a requirement that such provider will—

[(I) specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider;

[(II) to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and

[(III) meet specific objectives established by the area agency on aging, for providing services to low-income minority individuals within the planning and service area; and

[(iii) with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

[(I) identify the number of low-income minority older individuals in the planning and service area;

[(II) describe the methods used to satisfy the service needs of such minority older individuals; and

[(III) provide information on the extent to which the area agency on aging met the objectives described in clause (i);

[(B) provide assurance that the area agency on aging will use outreach efforts that will—

[(i) identify individuals eligible for assistance under this Act, with special emphasis on—

[(I) older individuals residing in rural areas;

[(II) older individuals with greatest economic need (with particular attention to low-income minority individuals);

[(III) older individuals with greatest social need (with particular attention to low-income minority individuals);

[(IV) older individuals with severe disabilities;

[(V) older individuals with limited English-speaking ability; and

[(VI) older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

[(ii) inform the older individuals referred to in subclauses (I) through (VI) of clause (i), and the caretakers of such individuals, of the availability of such assistance; and

[(C) contain an assurance that the area agency on aging will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals;

[(6) provide that the area agency on aging will—

[(A) conduct periodic evaluations of, and public hearings on, activities carried out under the area plan and an annual evaluation of the effectiveness of outreach conducted under paragraph (5)(B);

[(B) furnish appropriate technical assistance, and timely information in a timely manner, to providers of the sup-

portive services, nutrition services, or multipurpose senior centers in the planning and service area covered by the area plan;

[(C) take into account in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;

[(D) serve as the advocate and focal point for older individuals within the community by (in cooperation with agencies, organizations, and individuals participating in activities under the plan) monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect older individuals;

[(E)(i) where possible, enter into arrangements with organizations providing day care services for children or adults, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families; and

[(ii) if possible regarding the provision of services under this title, enter into arrangements and coordinate with organizations that have a proven record of providing services to older individuals, that—

[(I) were officially designated as community action agencies or community action programs under section 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or

[(II) came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs;

and that meet the requirements under section 675(c)(3) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(3));

[(F) establish an advisory council consisting of older individuals (including minority individuals) who are participants or who are eligible to participate in programs assisted under this Act, representatives of older individuals, local elected officials, providers of veterans' health care (if appropriate), and the general public, to advise continuously the area agency on aging on all matters relating to the development of the area plan, the administration of the plan and operations conducted under the plan;

[(G) develop and publish methods by which priority of services is determined, particularly with respect to the delivery of services under paragraph (2);

[(H) establish effective and efficient procedures for coordination of—

[(i) entities conducting programs that receive assistance under this Act within the planning and service area served by the agency; and

[(ii) entities conducting other Federal programs for older individuals at the local level, with particular em-

phasis on entities conducting programs described in section 203(b), within the area;

[(I) conduct efforts to facilitate the coordination of community-based, long-term care services designed to retain individuals in their homes, thereby deferring unnecessary, costly institutionalization, and designed to include the development of case management services as a component of the long-term care services;

[(J) identify the public and private nonprofit entities involved in the prevention, identification, and treatment of the abuse, neglect, and exploitation of older individuals, and based on such identification, determine the extent to which the need for appropriate services for such individuals is unmet;

[(K) facilitate the involvement of long-term care providers in the coordination of community-based long-term care services and work to ensure community awareness of and involvement in addressing the needs of residents of long-term care facilities;

[(L) coordinate the categories of services specified in paragraph (2) for which the area agency on aging is required to expend funds under part B, with activities of community-based organizations established for the benefit of victims of Alzheimer's disease and the families of such victims;

[(M) coordinate any mental health services provided with funds expended by the area agency on aging for part B with the mental health services provided by community health centers and by other public agencies and nonprofit private organizations;

[(N) if there is a significant population of older individuals who are Indians in the planning and service area of the area agency on aging, the area agency on aging shall conduct outreach activities to identify such individuals in such area and shall inform such individuals of the availability of assistance under this Act;

[(O)(i) compile available information on institutions of higher education in the planning and service area regarding—

[(I) the courses of study offered to older individuals by such institutions; and

[(II) the policies of such institutions with respect to the enrollment of older individuals with little or no payment of tuition, on a space available basis, or on another special basis;

and include in such compilation such related supplementary information as may be necessary; and

[(ii) based on the results of such compilation, make a summary of such information available to older individuals at multipurpose senior centers, congregate nutrition sites, and other appropriate places;

[(P) establish a grievance procedure for older individuals who are dissatisfied with or denied services under this title;

[(Q) enter into voluntary arrangements with nonprofit entities (including public and private housing authorities and organizations) that provide housing (such as housing under section 202 of the Housing Act of 1959 (12 U.S.C. 1701Q)) to older individuals, to provide—

[(i) leadership and coordination in the development, provision, and expansion of adequate housing, supportive services, referrals, and living arrangements for older individuals; and

[(ii) advance notification and nonfinancial assistance to older individuals who are subject to eviction from such housing;

[(R) list the telephone number of the agency in each telephone directory that is published, by the provider of local telephone service, for residents in any geographical area that lies in whole or in part in the service and planning area served by the agency—

[(i) under the name “Area Agency on Aging”;

[(ii) in the unclassified section of the directory; and

[(iii) to the extent possible, in the classified section of the directory, under a subject heading designated by the Commissioner by regulation; and

[(S) identify the needs of older individuals and describe methods the area agency on aging will use to coordinate planning and delivery of transportation services (including the purchase of vehicles) to assist older individuals, including those with special needs, in the area;

[(7) provide assurances that any amount received under part D will be expended in accordance with such part;

[(8) provide assurances that any amount received under part E will be expended in accordance with such part;

[(9) provide assurances that any amount received under part F will be expended in accordance with such part;

[(10) provide assurances that any amount received under part G will be expended in accordance with such part;

[(11) provides assurances that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(12), will expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 1991 in carrying out such a program under this title;

[(12) in the discretion of the area agency on aging, provide for an area volunteer services coordinator, who shall—

[(A) encourage, and enlist the services of, local volunteer groups to provide assistance and services appropriate to the unique needs of older individuals within the planning and service area;

[(B) encourage, organize, and promote the use of older individuals as volunteers to local communities within the area; and

[(C) promote the recognition of the contribution made by volunteers to programs administered under the area plan;

[(13)(A) describe all activities of the area agency on aging, whether funded by public or private funds; and

- [(B) provide an assurance that the activities conform with—
  - [(i) the responsibilities of the area agency on aging, as set forth in this subsection; and
  - [(ii) the laws, regulations, and policies of the State served by the area agency on aging;
- [(14) provide assurances that the area agency on aging will—
  - [(A) maintain the integrity and public purpose of services provided, and service providers, under this title in all contractual and commercial relationships;
  - [(B) disclose to the Commissioner and the State agency—
    - [(i) the identity of each nongovernmental entity with which such agency has a contract or commercial relationship relating to providing any service to older individuals; and
    - [(ii) the nature of such contract or such relationship;
  - [(C) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to provided, under this title by such agency has not resulted and will not result from such contract or such relationship;
  - [(D) demonstrate that the quantity or quality of the services to be provided under this title by such agency will be enhanced as a result of such contract or such relationship; and
  - [(E) on the request of the Commissioner or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds such agency receives or expends to provide services to older individuals;
- [(15) provide assurances that funds received under this title will not be used to pay any part of a cost (including an administrative cost) incurred by the area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this title;
- [(16) provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title;
- [(17) provide assurances that projects in the planning and service area will reasonably accommodate participants as described in section 307(a)(13)(G);
- [(18) provide assurances that the area agency on aging will, to the maximum extent practicable, coordinate the services it provides under this title with services provided under title VI;
- [(19)(A) provide an assurance that the area agency on aging will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under this title, if applicable; and
- [(B) specify the ways in which the area agency on aging intends to implement the activities; and

[(20) provide that case management services provided under this title through the area agency on aging will—

[(A) not duplicate case management services provided through other Federal and State programs;

[(B) be coordinated with services described in subparagraph (A); and

[(C) be provided by—

[(i) a public agency; or

[(ii) a nonprofit private agency that—

[(I) does not provide, and does not have a direct or indirect ownership or controlling interest in, or a direct or indirect affiliation or relationship with, an entity that provides, services other than case management services under this title; or

[(II) is located in a rural area and obtains a waiver of the requirement described in subclause (I).

[(b)(1) Each State, in approving area agency on aging plans under this section, shall waive the requirement described in paragraph (2) of subsection (a) for any category of services described in such paragraph if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area.

[(2)(A) Before an area agency on aging requests a waiver under paragraph (1) of this subsection, the area agency on aging shall conduct a timely public hearing in accordance with the provisions of this paragraph. The area agency on aging requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.

[(B) The area agency on aging shall prepare a record of the public hearing conducted pursuant to subparagraph (A) and shall furnish the record of the public hearing with the request for a waiver made to the State under paragraph (1).

[(C) Whenever the State agency proposes to grant a waiver to an area agency on aging under this subsection, the State agency shall publish the intention to grant such a waiver together with the justification for the waiver at least 30 days prior to the effective date of the decision to grant the waiver. An individual or a service provider from the area with respect to which the proposed waiver applies to entitled to request a hearing before the State agency on the request to grant such waiver. If, within the 30-day period described in the first sentence of this subparagraph, an individual or service provider requests a hearing under this subparagraph, the State agency shall afford such individual or provider an opportunity for a hearing.

[(D) If the State agency waives the requirement described in paragraph (2) of subsection (a), the State agency shall provide to the Commissioner—

[(i) a report regarding such waiver that details the demonstration made by the area agency on aging to obtain such waiver;

[(ii) a copy of the record of the public hearing conducted pursuant to subparagraph (A); and



[(iii) a copy of the record of any public hearing conducted pursuant to subparagraph (C).

[(c)(1) Subject to regulations prescribed by the Commissioner, an area agency on aging designated under section 305(a)(2)(A) or, in areas of a State where no such agency has been designated, the State agency, may enter into agreement with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this title.

[(2) In accordance with an agreement entered into under paragraph (1), funds appropriated under this title may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act.

[(d) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

[(e)(1) If the head of a State agency finds that an area agency on aging has failed to comply with Federal or State laws, including the area plan requirements of this section, regulations, or policies, the State may withhold a portion of the funds to the area agency or again available under this title.

[(2)(A) The head of a State agency shall not make a final determination withholding funds under paragraph (a) without first affording the area agency on aging due process in accordance with procedures established by the State agency.

[(B) At a minimum, such procedures shall include procedures for—

[(i) providing notice of an action to withhold funds;

[(ii) providing documentation of the need for such action; and

[(iii) at the request of the area agency on aging, conducting a public hearing concerning the action.

[(3)(A) If a State agency withholds the funds, the State agency may use the funds withheld to directly administer programs under this title in the planning and service area served by the area agency on aging for a period not to exceed 180 days, except as provided in subparagraph (B).

[(B) If the State agency determines that the area agency on aging has not taken corrective action, or if the State agency does not approved the corrective action, during the 180-day period described in subparagraph (A), the State agency may extend the period for not more than 90 days.

#### STATE PLANS

[SEC. 307. (a) Except as provided in the succeeding sentence and section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Commissioner a State plan for a two-, three, or four-year period determined by the State agency with such annual revisions as are

necessary, which meets such criteria as the Commissioner may by regulation prescribe. If the Commissioner determines, in the discretion of the Commissioner, that a State failed in 2 successive years to comply with the requirements under this title, then the State shall submit to the Commissioner a State plan for a 1-year period that meets such criteria, for subsequent years until the Commissioner determines that the State is in compliance with such requirements. Each such plan shall comply with all of the following requirements:

[(1) the plan shall contain assurances that the State plan will be based upon area plans developed by area agencies on aging within the State designated under section 305(a)(2)(A) and that the State will prepare and distribute a uniform format for use by area agencies on aging in developing area plans under section 306.

[(2) The plan shall provide that each area agency on aging designated under section 305(a)(2)(A) will develop and submit to the State agency for approval an area plan which complies with the provisions of section 306.

[(3)(A) The plan shall provide that the State agency will evaluate the need for supportive services (including legal assistance and transportation services), nutrition services, and multipurpose senior centers within the State and determine the extent to which existing public or private programs meet such need. To conduct the evaluation, the State agency shall use the procedures implemented under section 202(a)(29).

[(B) The plan shall provide assurances that the State agency will spend in each fiscal year, for services to older individuals residing in rural areas in the State assisted under this title an amount equal to not less than 105 percent of the amount expended for such, services (including amounts expended under title V and title VII) in fiscal year 1978.

[(4) The plan shall provide for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan, and where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration.

[(5) The plan shall provide that the State agency will afford an opportunity for a hearing upon request to any agency on aging submitting a plan under this title, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan. The State agency shall establish and public procedures for requesting and conducting such hearing.

[(6) The plan shall provide that the State agency will make such reports, in such form, and containing such information, as the Commissioner may require, and comply with such requirements as the Commissioner may impose to insure the correctness of such reports.

[(7(A) The plan shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract.

[(B) The plan shall provide assurances that—

[(i) no individual (appointed or otherwise) involved in the designation of the State agency of an area agency on aging, or in the designation of the head of any subdivision of the State agency or of an area agency on aging, is subject to a conflict of interest prohibited under this Act;

[(ii) no officer, employee, or other representative of the conflict of interest prohibited under this Act; and

[(iii) mechanisms are in place to identify and remove conflict or interest prohibited under this Act; and

[(C) the plan shall provide assurances that the State agency and each area agency on aging will—

[(i) maintain the integrity and public purpose of services provided, and service providers, under the State plan in all contractual and commercial relationships;

[(ii) disclose to the Commissioner—

[(I) the identity of each nongovernmental entity with which the State agency or area agency on aging has a contract or commercial relationship relating to providing any service to older individuals; and

[(II) the nature of such contract or such relationship;

[(iii) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this Act by such agency has not resulted and will not result from such contract or such relationship;

[(iv) demonstrate that the quantity or quality of the services to be provided under the State plan will be enhanced as a result of such contract or such relationship; and

[(v) on the request of the Commissioner, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds the State agency and area agency on aging receive or expend to provide services to older individuals.

[(8) The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out under the State plan, including an evaluation of the effectiveness of the State agency in reaching older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals. In conducting such evaluations and public hearings, the State agency shall solicit the views and experiences of entities that are knowledgeable about the needs and concerns of low-income minority older individuals.

[(9) The plan shall provide for establishing and maintaining information and assistance services in sufficient numbers to

assure that all older individuals in the State who are not furnished adequate information and assistance services under section 306(a)(4) will have reasonably convenient access to such services.

[(10) The plan shall provide that no supportive services, nutrition services, or in-home services (as defined in section 342) will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such services by the State agency or an area agency on aging is necessary to assure an adequate supply of such services, or where such services are directly related to such State or area agency on aging's administrative functions, or where such services of comparable quality can be provided more economically by such State or area agency on aging.

[(11) The plan shall provide that subject to the requirements of merit employment systems of State and local governments—

[(A) preference shall be given to older individuals; and

[(B) special consideration shall be given to individuals with formal training in the field of aging (including an educational specialty or emphasis in aging and a training degree or certificate in aging) or equivalent professional experience in the field of aging;

for any staff positions (full time or part time) in State and area agencies for which such individuals qualify.

[(12) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 712 and this title.

[(13) The plan shall provide with respect to nutrition services that—

[(A) each project providing nutrition services will be available to older individuals and to their spouses, and may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by older individuals at which congregate nutrition services are provided;

[(B) primary consideration shall be given to the provision of meals in a congregate setting, except that each area agency on aging (i) may award funds made available under this title (other than under section 303(b)(3)) to organizations for the provision of home delivered meals to older individuals in accordance with the provisions of subpart 2 of part C, based upon a determination of need made by the recipient of a grant or contract entered into under this title, without requiring that such organizations also provide meals to older individuals in a congregate setting; and (ii) shall, in awarding such funds, select such organizations in a manner which complies with the provisions of subparagraph (H);

[(C)(i) each project will permit recipients of grants or contracts to solicit voluntary contributions for meals furnished in accordance with guidelines established by the Commissioner, taking into consideration the income ranges of eligible individuals in local communities and other

sources of income of the recipients of a grant or contract; and (ii) such voluntary contributions will be used to increase the number of meals served by the project involved, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services;

[(D) in the case of meals served in a congregate setting, a site for such services and for comprehensive supportive services is furnished in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon a multipurpose senior center, a school, a church, or other appropriate community facility, preferably within walking distance where possible, and where appropriate, transportation to such site is furnished;

[(E) each project will establish outreach activities which assure that the maximum number of eligible individuals may have an opportunity to participate;

[(F) each project will establish and administer the nutrition project with the advice of dietitians (or individuals with comparable expertise), persons competent in the field of service in which the nutrition project is being provided, older individuals who will participate in the program, and of persons who are knowledgeable with regard to the needs of older individuals;

[(G) each project will provide special menus, where feasible and appropriate to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals;

[(H) each area agency on aging will give consideration where feasible, in the furnishing of home delivered meals to the use of organizations which (i) have demonstrated an ability to provide home delivered meals efficiently and reasonably; and (ii) furnish assurances to the area agency on aging that such on organization will maintain efforts to solicit voluntary support and that the funds made available under this title to the organization will be used to supplant funds from non-Federal sources;

[(I) each area agency on aging shall establish procedures that will allow nutrition project administrators the option to offer a meal, on the same basis as meals are provided to participating older individuals, to individuals providing volunteer services during the meal hours, and to individuals with disabilities who reside at home with and accompany older individuals who are eligible under this Act;

[(J) each nutrition project shall provide nutrition education on at least a semiannual basis to participants in programs described in part C;

[(K) each project shall comply with applicable provisions of State or local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service, and delivery of meals to an older individual;

[(L) the State agency will monitor, coordinate, and assist in the planning of nutritional services, with the advice

of a dietitian or an individual with comparable expertise; and

[(M) the State agency will—

[(1) develop nonfinancial criteria for eligibility to receive nutrition services under section 336; and

[(ii) periodically evaluate recipients of such services to determine whether they continue to meet such criteria.

[(14) The plan shall provide, with respect to the acquisition (in fee simple or by lease for 10 years or more), alteration, or renovation of existing facilities (or the construction of new facilities in any area in which there are no suitable structures available, as determined by the State agency, after full consideration of the recommendations made by area agencies on aging, to be a focal point for the delivery of services assisted under this title) to serve as multipurpose senior centers, that—

[(A) the plan contains or is supported by reasonable assurances that (i) for not less than 10 years after acquisition, or not less than 20 years after the completion of construction, the facility will be used for the purpose for which it is to be acquired or constructed, unless for unusual circumstances the Commissioner waives the requirement of this division; (ii) sufficient funds will be available to meet the non-Federal share of the cost of acquisition or construction of the facility; (iii) sufficient funds will be available when acquisition or construction is completed, for effective use of the facility for the purpose for which it is being acquired or constructed; and (iv) the facility will not be used and is not intended to be used for sectarian instruction or as a place for religious worship;

[(B) the plan contains or is supported by reasonable assurances that in the case of purchase or construction, there are no existing facilities in the community suitable for leasing as a multipurpose senior center;

[(C) the plans and specifications for the facility are in accordance with regulations relating to minimum standards of construction, promulgated with particular emphasis on securing compliance with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

[(D) the plan contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the facility will be paid wages at rates not less than those prevailing for similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, commonly known as the Davis-Bacon Act), and the Secretary of Labor shall have, with respect to the labor standards specified in this subparagraph, the authority and functions set forth in reorganization plan numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267, and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

[(E) the plan contains assurances that the State agency will consult with the Secretary of Housing and Urban Development with respect to the technical adequacy of any proposed alteration or renovation.

[(15) The plan shall provide that with respect to legal assistance—

[(A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to delivery legal assistance; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Commissioner; and (iii) attempt to involve the private bar in legal assistance activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;

[(B) the plan contains assurances that no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need; and the area agency on aging makes a finding, after assessment, pursuant to standards for service promulgated by the Commissioner, that any grantee selected is the entity best able to provide the particular services;

[(C) the State agency will provide for the coordination of the furnishing of legal assistance to older individuals within the State, and provide advice and technical assistance in the provision of legal assistance to older individuals within the State and support the furnishing of training and technical assistance for legal assistance for older individuals;

[(D) the plan contains assurances, to the extent practicable; that legal assistance furnished under the plan will be in addition to any legal assistance for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal assistance for older individuals; and

[(E) the plan contains assurances that area agencies on aging will give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.

[(16) The plan shall provide, whenever the State desires to provide for a fiscal year for services for the prevention of abuse of older individuals—

[(A) the plan contains assurances that any area agency on aging carrying out such services will conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for—

[(i) public education to identify and prevent abuse of older individuals;;

[(ii) receipt of reports of abuse of older individuals;

[(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to be the parties to be referred; and

[(iv) referral of complaints to law enforcement or public protective service agencies where appropriate;

[(B) the State will not permit involuntary or coerced participation in the program of services described in this paragraph by alleged victims, abusers, or their households; and

[(C) all information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information may be released to a law enforcement or public protective service agency.

[(17) The plan shall provide assurances that each State will provide inservice training opportunities for personnel of agencies and programs funded under this Act.

[(18) The plan shall provide assurances that each State will assign personnel (one of whom shall be known as a legal assistance developer) to provide State leadership in developing legal assistance programs for older individuals throughout the State.

[(19) The plan shall provide, with respect to education and training services, assurances that area agencies on aging may enter into grants and contracts with providers of education and training services which can demonstrate the experience or capacity to provide such services (except that such contract authority shall be effective for any fiscal year only to such extent, or in such amounts, as are provided in appropriations Acts).

[(20) The plan shall provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area—

[(A) to utilize in the delivery of outreach services under section 306(a)(2)(A), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and



[(B) to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include—

[(i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and

[(ii) providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to take into account effectively linguistic and cultural differences.

[(21) The plan shall provide assurances that the State agency, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(12), will expend not less than the total amount expended by the agency in fiscal year 1991 in carrying out such a program under this title.

[(22) The plan shall specify a minimum percentage of the funds received by each area agency on aging for part B that will be expended, in the absence of the waiver granted under section 306(b)(1), by any such area agency on aging to provide each of the categories of service specified in section 306(a)(2).

[(23) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

[(A) identify the number of low-income minority older individuals in the State; and

[(B) describe the methods used to satisfy the service needs of such minority older individuals.

[(24) The plan shall provide assurances that the State agency will require outreach efforts that will—

[(A) identify individuals eligible for assistance under this Act, with special emphasis on—

[(i) older individuals residing in rural areas;

[(ii) older individuals with greatest economic need (with particular attention to low-income minority individuals);

[(iii) older individuals with greatest social need (with particular attention to low-income minority individuals);

[(iv) older individuals with severe disabilities;

[(v) older individuals with limited English-speaking ability; and

[(vi) older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

[(B) inform the older individuals referred to in clauses (i) through (vi) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance;

[(25) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of

needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.

[(26) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(6)(I), for older individuals who—

[(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

[(B) are patients in hospitals and are at risk of prolonged institutionalization; or

[(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.

[(27) The plan shall provide assurances of consultation and coordination in planning and provision of in-home services under section 341 with State and local agencies and private nonprofit organizations which administer and provide services relating to health, social services, rehabilitation, and mental health services.

[(28) The plan shall provide assurances that if the State receives funds appropriated under section 303(e), the State agency and area agencies on aging will expend such funds to carry out part E.

[(29) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared, describe the methods used to satisfy the service needs of older individuals who reside in rural areas.

[(30) The plan shall include the assurances and description required by section 705(a).

[(31)(A) If 50 percent or more of the area plans in the State provide for an area volunteer services coordinator, as described in section 306(a)(12), the State plan shall provide for a State volunteer services coordinator, who shall—

[(i) encourage area agencies on aging to provide for area volunteer services coordinators;

[(ii) coordinate the volunteer services offered between the various area agencies on aging;

[(iii) encourage, organize, and promote the use of older individuals as volunteers to the State;

[(iv) provide technical assistance, which may include training, to area volunteer services coordinators; and

[(v) promote the recognition of the contribution made by volunteers to the programs administered under the State plan.

[(B) If fewer than 50 percent of the area plans in the State provide for an area volunteer services coordinator, the State plan may provide for the State volunteer services coordinator described in subparagraph (A).

[(32) The plan shall provide assurances that special efforts will be made to provide technical assistance to minority providers of services.

[(33) The plan—

[(A) shall include the statement and the demonstration required by paragraphs (2) and (4) of section 305(d); and

[(B) may not be approved unless the Commissioner approves such statement and such demonstration.

[(34) The plan shall provide an assurance that the State agency will coordinate programs under this title and title VI, if applicable.

[(35) The plan shall—

[(A) provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under this title, if applicable; and

[(B) specify the ways in which the State agency intends to implement the activities.

[(36) If case management services are offered to provide access to supportive services, the plan shall provide that the State agency shall ensure compliance with the requirements specified in section 306(a)(20).

[(37) The plan shall identify for each fiscal year, the actual and projected additional costs of providing services under this title, including the cost of providing access to such services, to older individuals residing in rural areas in the State (in accordance with a standard definition of rural areas specified by the Commissioner).

[(38) The plan shall provide assurances that funds received under this title will not be used to pay any part of a cost (including an administrative cost) incurred by the State or an area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this title.

[(39) The plan shall provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title.

[(40) The plan shall provide assurances that if the State receives funds appropriated under section 303(g) the State agency and area agencies on aging will expend such funds to carry out part G.

[(41) The plan shall provide assurances that demonstrable efforts will be made—

[(A) to coordinate services provided under this Act with other State services that benefit older individuals; and

[(B) to provide multigenerational activities, such as opportunities for older individuals to serve as mentors or advisers in child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs.

[(42) The plan shall provide assurances that the State will coordinate public services within the State to assist older indi-

viduals to obtain transportation services associated with access to services provided under this title, to services under title VI, to comprehensive counseling services, and to legal assistance.

[(43) The plan shall provide that the State agency shall issue guidelines applicable to grievance procedures required by section 306(a)(6)(P).

[(44) The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of in-home services under this title.

[(b)(1) The Commissioner shall approve any State plan which the Commissioner finds fulfills the requirements of subsection (a), except the Commissioner may not approve such plan unless the Commissioner determines that the formula submitted under section 305(a)(2)(D) complies with the guidelines in effect under section 305(a)(2)(C).

[(2) The Commissioner, in approving any State plan under this section, may waive the requirement described in paragraph (3)(B) of subsection (a) if the State agency demonstrates to the Commissioner that the service needs of older individuals residing in rural areas in the State are being met, or that the number of older individuals residing in such rural areas is not sufficient to require the State agency to comply with the requirement described in clause (3)(B) of subsection (a).

[(c)(1) The Commissioner shall not make a final determination disapproving any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 305, without first affording the State reasonable notice and opportunity for a hearing.

[(2) Not later than 30 days after such final determination, a State dissatisfied with such final determination may appeal such final determination to the Secretary for review. If the State timely appeals such final determination in accordance with subsection (e)(1), the Secretary shall dismiss the appeal filed under this paragraph.

[(3) If the State is dissatisfied with the decision of the Secretary after review under paragraph (2), the State may appeal such decision not later than 30 days after such decision and in the manner described in subsection (e). For purposes of appellate review under the preceding sentence, a reference in subsection (e) to the Commissioner shall be deemed to be a reference to the Secretary.

[(d) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State agency, finds that—

[(1) the State is not eligible under section 305,

[(2) the State plan has been so changed that it no longer complies substantially with the provisions of subsection (a), or

[(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a), the Commissioner shall notify such State agency that no further payments from its allotments under section 304 and section 308 will be made to the State (or, in the Commissioner's discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until the Commissioner is satisfied that there will no longer be any failure to comply. Until the Commissioner is so satisfied, no further pay-

ments shall be made to such State from its allotments under section 304 and section 308 (or payments shall be limited to projects under or portions of the State plan not affected by such failure). The Commissioner shall, in accordance with regulations the Commissioner shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of this section. Any such payment shall be matched in the proportions specified in section 304.

[(e)(1) A state which is dissatisfied with a final action of the Commissioner under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within 30 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by the Commissioner for such purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which the Commissioner's action is based, as provided in section 2112 of title 28, United States Code.

[(2) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside the Commissioner's order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown may remand the case to the Commissioner to take further evidence, and the Commissioner shall, within 30 days, file in the court the record of those further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[(3) The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

[(f)(1) Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

[(2) Information disclosed under section 306(a)(14)(B)(i) or subsection (a)(7)(C)(ii)(I) may be disclosed to the public by the State agency or the State only if such information could be disclosed under section 552 of title 5, United States Code, by an agency of the United States.

#### PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

[SEC. 308. (a)(1) Amounts available to States under subsection (b)(1) may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 percent, of the cost of the administration of its State plan, including the preparation of the State plan, the collection of data and the carrying out of analyses related to the need for supportive services,

nutrition services, and multipurpose senior centers within the State, and dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services assisted under this title.

[(2) Any sums available to a State under subsection (b)(1) for part of the cost of the administration of its State plan which the State determines is not needed for such purposes may be used by the State to supplement the amount available under section 304(d)(1)(A) to cover part of the cost of the administration of area plans.

[(3) Any State which has been designated a single planning and service area under section 305(a)(1)(E) covering all, or substantially all, of the older individuals in such State, as determined by the Commissioner, may elect to pay part of the costs of the administration of State and area plans either out of sums received under this section or out of sums made available for the administration of area plans under section 304(d)(1)(A), but shall not pay such costs out of sums received or allotted under both such sections.

[(b)(1) If for any fiscal year the aggregate amount appropriated under section 303 does not exceed \$800,000,000, then—

[(A) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or \$300,000; and

[(B) in the case of Guam, American Samoa, the United States, Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment of \$75,000; shall be available to such State to carry out the purposes of this section.

[(2) If for any fiscal year the aggregate amount appropriated under section 303 exceeds \$800,000,000, then—

[(A) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or \$500,000; and

[(B) in the case of Guam, American Samoa, the United States, Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment of \$100,000; shall be available to such State to carry out the purposes of this section.

[(3)(A) If the aggregate amount appropriated, under section 303 for a fiscal year does not exceed \$800,000,000, then any State which desires to receive amounts, in addition to amounts allotted to such State under paragraph (1), to be used in the administration of its State plan in accordance with subsection (a) may transmit an application to the Commissioner in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Commissioner may require, except that such application may not be made as part of, or as an amendment to, the State plan.

[(B) The Commissioner may approve any application transmitted by a State under subparagraph (A) if the Commissioner determines, based upon a particularized showing of need that—

[(i) the State will be unable to fully and effectively administer its State plan and to carry out programs and projects authorized by this title unless such additional amounts are made available by the Commissioner;

[(ii) the state is making full and effective use of its allotment under paragraph (1) and of the personnel of the State agency and area agencies designated under section 305(a)(2)(A) in the administration of its State plan in accordance with subsection (a); and

[(iii) the State agency and area agencies on aging of such State are carrying out, on a full-time basis, programs and activities which are in furtherance of the objectives of this Act.

[(C) The Commissioner may approve that portion of the amount requested by a State in its application under subparagraph (A) which the Commissioner determines has been justified in such application.

[(D) Amounts which any State may receive in any fiscal year under this paragraph may not exceed three-fourths of 1 percent of the sum of the amounts allotted under section 304(a) to such State to carry out the State plan for such fiscal year.

[(E) No application by a State under subparagraph (A) shall be approved unless it contains assurances that no amounts received by the State under this paragraph will be used to hire any individual to fill a job opening created by the action of the State in laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

[(4)(A) Notwithstanding any other provision of this title and except as provided in subparagraph (B), with respect to funds received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), the State may elect in its plan under section 307(a)(13) regarding part C of this title, to transfer not more than 30 percent of the funds so received between subpart 1 and subpart 2 of part C, for use as the State considers appropriate to meet the needs of the area served. The Commissioner shall approve any such transfer unless the Commissioner determines that such transfer is not consistent with the objectives of this Act.

[(B) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), including funds transferred under subparagraph (A) without regard to this subparagraph, for fiscal year 1993, 1994, 1995, or 1996 are insufficient to satisfy the need for services under subpart 1 or subpart 2 of part C, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need—

[(i) an additional 18 percent of the funds so received for fiscal year 1993;

[(ii) an additional 15 percent of the funds so received for each of the fiscal years 1994 and 1995; and

[(iii) an additional 10 percent of the funds so received for fiscal year 1996.

[(5)(A) Notwithstanding any other provision of this title and except as provided in subparagraph (B), of the funds received by a State attributable to funds appropriated under subsection (a)(1), and paragraphs (1) and (2) of subsection (b), of section 303, the State may elect to transfer not more than 30 percent for fiscal year 1993, not more than 25 percent for fiscal year 1994, not more than 25 percent for fiscal year 1995, and not more than 20 percent for fiscal year 1996, between programs under part B and part C, for use as the State considers appropriate. The State shall notify the Commissioner of any such election.

[(B)(i) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under part B or part C (including funds transferred under subparagraph (A) without regard to this subparagraph) for fiscal year 1994 or 1995 are insufficient to satisfy the need for services under such part, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 5 percent of the funds so received for such fiscal year.

[(ii) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under part B or part C (including funds transferred under paragraph (A) without regard to this subparagraph) for fiscal year 1996 are insufficient to satisfy the need for services under such part, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 8 percent of the funds so received for such fiscal year.

[(C) At a minimum, the application described in subparagraph (A) shall include a description of the amount of be transferred, the purposes of the transfer, the need for the transfer, and the impact of the transfer on the provision of services from which the funding will be transferred. The Commissioner shall approve or deny the application in writing.

[(6) A State agency may not delegate to an area agency on aging or any other entity the authority to make a transfer under paragraph (4)(A) or (5)(A).

[(7) The Commissioner shall annually collect, and include in the report required by section 207(a), data regarding the transfers described in paragraphs (4)(A) and (5)(A), including—

[(A) the amount of funds involved in the transfers, analyzed by State;

[(B) the rationales for the transfers;

[(C) in the case of transfers described in paragraphs (4)(A) and (5)(A), the effect of the transfers of the provision of services, including the effect on the number of meals served, under—

[(i) subpart 1 of part C; and

[(ii) subpart 2 of part C; and

[(D) in the case of transfers described in paragraph (5)(A)—

[(i) in the case of transfers to part B, information on the supportive services, or services provided through senior centers, for which the transfers were used; and



[(ii) the effect of the transfers on the provision of services provided under—

[(I) part B; and

[(II) part C, including the effect on the number of meals served.

[(c) The amounts of any State's allotment under subsection (b) for any fiscal year which the Commissioner determines will not be required for that year for the purposes described in subsection (a)(1) shall be available to provide services under part B or part C, or both, in the State.

#### [PAYMENTS

[SEC. 309. (a) Payments of grants or contracts under this title may be made (after necessary adjustments resulting from previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine. From a State's allotment for a fiscal year which is available under section 308 the Commissioner may pay to a State which does not have a State plan approved under section 307 such amounts as the Commissioner deems appropriate for the purpose of assisting such State in developing a State plan.

[(b)(1) For each fiscal year, not less than 25 percent of the non-Federal share of the total expenditures under the State plan which is required by section 304(d) shall be met from funds from State or local public sources.

[(2) Funds required to meet the non-Federal share required by section 304(d)(1)(D), in amounts exceeding the non-Federal share required prior to fiscal year 1981, shall be from State sources.

[(c) A State's allotment under section 304 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 307 are less than its average annual expenditures from such sources for the period of 3 fiscal years preceding such year.

#### [DISASTER RELIEF REIMBURSEMENTS

[SEC. 310. (a)(1) The Commissioner may provide reimbursements to any State, upon application for such reimbursement, for funds such State makes available to area agencies on aging in such State for the delivery of supportive services (and related supplies) during any major disaster declared by the President in accordance with the Disaster Relief and Emergency Assistance Act.

[(2) Total payments to all States under paragraph (1) in any fiscal year shall not exceed 2 percent of the total amount appropriated and available to carry out title IV.

[(3) If the Commissioner decides, in the 5-day period beginning on the date such disaster is declared by the President, to provide an amount of reimbursement under paragraph (1) to a State, then the Commissioner shall provide not less than 75 percent of such amount to such State not later than 5 days after the date of such decision.

[(b)(1) At the beginning of each fiscal year the Commissioner shall set aside, for payment to States under subsection (a), an amount equal to 2 percent of the total amount appropriated and available to carry out title IV.

[(2) Amounts set aside under paragraph (1) which are not obligated by the end of the third quarter of any fiscal year shall be made available to carry out title IV.

[(c) Nothing in this section shall be construed to prohibit expenditures by States for disaster relief for older individuals in excess of amounts reimbursable under this section, by using funds made available to them under other sections of this Act or under other provisions of Federal or State law, or from private sources.

#### [AVAILABILITY OF SURPLUS COMMODITIES

[SEC. 311. (a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

[(2) The Commodities Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

[(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

[(4)(A) Subject to the authorization of appropriations specified in subsection (c), in donating commodities under this subsection, the Secretary of Agriculture shall maintain—

[(i) for fiscal year 1992, a level of assistance equal to the greater of—

[(I) a per meal rate equal to the amount appropriated under subsection (c) for fiscal year 1992, divided by the number of meals served in the preceding fiscal year; or

[(II) 61 cents per meal; and

[(ii) for fiscal year 1993 and each subsequent fiscal year, an annually programmed level of assistance equal to the greater of—

[(I) a per meal rate equal to the amount appropriated under subsection (c) for the fiscal year, divided by the number of meals served in the preceding fiscal year; or

[(II) 61 cents per meal, adjusted in accordance with changes in the series for food away from home, of the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor, based on the 12-month period ending on July 1 of the preceding year.

[(B) Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

[(b)(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive

cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

[(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

[(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

[(c)(1)(A) There are authorized to be appropriated \$250,000,000 for fiscal year 1992, \$310,000,000 for fiscal year 1993, \$380,000,000 for fiscal year 1994, and \$460,000,000 for fiscal year 1995, to carry out the provisions of this section (other than subsection (a)(1)).

[(B) Effective on the first day of the first month beginning after the date of enactment of the Older Americans Act Amendments of 1984, no State may receive reimbursement under the provisions of this section unless the State submits final reimbursement claims for meals within 90 days after the last day of the quarter for which the reimbursement is claimed.

[(2)(A) Except as provided in subparagraph (B), in any fiscal year in which compliance with subsection (a)(4) of this section costs more than the amounts authorized under paragraph (1) of this subsection for that fiscal year the Secretary of Agriculture shall reduce the cents per meal level determined pursuant to subsection (a)(4) for that fiscal year as necessary to meet the authorization of appropriations for that fiscal year.

[(B) In each fiscal year, the final reimbursement claims shall be adjusted to use the full amount appropriated under this subsection for the fiscal year.

[(d) In each fiscal year, the Secretary of Agriculture and the Secretary of Health and Human Services shall jointly disseminate to State agencies, area agencies on aging, and providers of nutrition services assisted under this title, information concerning—

[(1) the existence of any Federal commodity processing program in which such State agencies, area agencies on aging, and providers may be eligible to participate; and

[(2) the procedures to be followed to participate in the program.

#### [(MULTIPURPOSE SENIOR CENTERS: RECAPTURE OF PAYMENTS

[SEC. 312. If, within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under this title—

[(1) the owner of the facility ceases to be a public or non-profit private agency or organization; or

[(2) the facility ceases to be used for the purposes for which it was acquired (unless the Commissioner determines, in ac-

cordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so); the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

#### **[AUDIT**

**[SEC. 313. (a)** The Commissioner and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

**[(b)** State agencies and area agencies on aging shall not request information or data from providers which is not pertinent to services furnished pursuant to this Act or a payment made for such services.

#### **[SEC. 314. RIGHTS RELATING TO IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.**

**[(a) PROMOTION.—**The Commissioner shall require entities that provide in-home services under this title to promote the rights of each older individual who receives such services. Such rights include the following:

**[(1) The right—**

**[(A)** to be fully informed in advance about each in-home service provided by such entity under this title and about any change in such service that may affect the well-being of such individual; and

**[(B)** to participate in planning and changing an in-home service provided under this title by such entity unless such individual is judicially adjudged incompetent.

**[(2) The right to voice a grievance with respect to such service that is or fails to be so provided, without discrimination or reprisal as a result of voicing such grievance.**

**[(3) The right to confidentiality of records relating to such individual.**

**[(4) The right to have the property of such individual treated with respect.**

**[(5) The right to be fully informed (orally and in writing), in advance of receiving an in-home service under this title, of such individual's rights and obligations under this title.**

#### **[PART B—SUPPORTIVE SERVICES AND SENIOR CENTERS**

##### **[PROGRAM AUTHORIZED**

**[SEC. 321. (a)** The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for any of the following supportive services:

[(1) health (including mental health), education and training, welfare, informational, recreational, homemaker, counseling, or referral services;

[(2) transportation services to facilitate access to supportive services or nutrition services, or both;

[(3) services designed to encourage and assist older individuals to use the facilities and services (including information and assistance services) available to them, including language translation services to assist older individuals with limited-English speaking ability to obtain services under this title;

[(4) services designed (A) to assist older individuals to obtain adequate housing, including residential repair and renovation projects designed to enable older individuals to maintain their homes in conformity with minimum housing standards; (B) to adapt homes to meet the needs of older individuals who have physical disabilities; (C) to prevent unlawful entry into residences of older individuals, through the installation of security devices and through structural modifications or alterations of such residences; or (D) to receive applications from older individuals for housing under section 202 of the Housing Act of 1959 (12 U.S.C. 1701Q);

[(5) services designed to assist older individuals in avoiding institutionalization and to assist individuals in long-term care institutions who are able to return to their communities, including client assessment through case management and integration and coordination of community services such as preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, and letter writing services, through resource development and management to assist such individuals to live independently in a home environment;

[(6) services designed to provide to older individuals legal assistance and other counseling services and assistance, including—

[(A) tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage;

[(B) representation—

[(i) of individuals who are wards (or are allegedly incapacitated); and

[(ii) in guardianship proceedings of older individuals who seek to become guardians, if other adequate representation is unavailable in the proceedings; and

[(C) provision, to older individuals who provide uncompensated care to their adult children with disabilities, of counseling to assist such older individuals with permanency planning for such children;

[(7) services designed to enable older individuals to attain and maintain physical and mental well-being through programs or regular physical activity, exercise, music therapy, art therapy, and the dance-movement therapy;

[(8) services designed to provide health screening to detect or prevent illnesses, or both, that occur most frequently in older individuals;

[(9) services designed to provide, for older individuals, pre-retirement counseling and assistance in planning for and assessing future post-retirement needs with regard to public and private insurance, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate matters;

[(10) services of an ombudsman at the State level to receive, investigate, and act on complaints by older individuals who are residents of long-term care facilities and to advocate for the well-being of such individuals;

[(11) services which are designed to meet the unique needs of older individuals who are disabled, and of older individuals who provide uncompensated care to their adult children with disabilities;

[(12) services to encourage the employment of older workers, including job and second career counseling and, where appropriate, job development, referral, and placement;

[(13) crime prevention services and victim assistance programs for older individuals;

[(14) a program, to be known as "Senior Opportunities and Services", designed to identify and meet the needs of low-income older individuals in one or more of the following areas: (A) development and provision of new volunteer services; (B) effective referral to existing health, employment, housing, legal, consumer, transportation, and other services; (C) stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; and (D) such other services as the Commissioner may determine are necessary or especially appropriate to meet the needs of low-income older individuals and to assure them greater self-sufficiency;

[(15) services for the prevention of abuse of older individuals in accordance with clause (16) of section 307(a);

[(16) inservice training and State leadership for legal assistance activities;

[(17) health and nutrition education services, including information concerning prevention, diagnosis, treatment, and rehabilitation of age-related diseases and chronic disabling conditions;

[(18) services designed to enable mentally impaired older individuals to attain and maintain emotional well-being and independent living through a coordinated system of support services;

[(19) services designed to support family members and other persons providing voluntary care to older individuals that need long-term care services;

[(20) services designed to provide information and training for individuals who are or may become guardians or representative payees of older individuals, including information on the powers and duties of guardians and representative payees and on alternatives to guardianships;

[(21) services to encourage and facilitate regular interaction between school-age children and older individuals, including visits in long-term care facilities, multipurpose senior centers, and other settings; or

[(22) any other services; if such services meet standards prescribed by the Commissioner and are necessary for the general welfare of older individuals. For purposes of paragraph (5), the term “client assessment through case management” includes providing information relating to assistive technology.

[(b)(1) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities to serve as multipurpose senior centers.

[(2) Funds made available to a State under this part may be used for the purpose of assisting in the operation of multipurpose senior centers and meeting all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

#### **[PART C—NUTRITION SERVICE**

##### **[Subpart 1—Congregate Nutrition Services**

###### **[PROGRAM AUTHORIZED**

**[SEC. 331.** The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects—

[(1) which, 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Commissioner by regulation) and a lesser frequency is approved by the State agency), provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide;

[(2) which shall be provided in congregate settings; and

[(3) which may include nutrition education services and other appropriate nutrition services for older individuals.

##### **[Subpart 2—Home Delivered Nutrition Services**

###### **[PROGRAM AUTHORIZED**

**[SEC. 336.** The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals which, 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Commissioner by regulation) and a lesser frequency is approved by the State agency), provide at least one home delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide.

###### **[CRITERIA**

**[SEC. 337.** The Commissioner, in consultation with organizations of and for the aged, blind, and disabled, and with representatives from the American Dietetic Association, the Dietary Managers Association, the National Association of Area Agencies on Aging, the

National Association of Nutrition and Aging Services Programs, the National Association of Meals Programs, Incorporated, and any other appropriate group, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336. The criteria required by this section shall take into account the ability of established home delivered meals programs to continue such services without major alteration in the furnishing of such services.

**[Subpart 3—School-Based Meals for Volunteer Older Individuals and Multigenerational Programs]**

**[SEC. 338. ESTABLISHMENT.]**

**[(a) IN GENERAL.]**—The Commissioner shall establish and carry out, under State plans approved under section 307, a program for making grants to States to pay for the Federal share of establishing and operating projects in public elementary and secondary schools (including elementary and secondary schools for Indian children operated with Federal assistance, or operated by the Department of the Interior, and referred to in section 1005(d)(2) of the Elementary and Secondary Education Act of 1995 (20 U.S.C. 2711(d)(2))) that—

**[(1)]** provide hot meals, each of which ensures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, to volunteer older individuals—

**[(A)]** while such schools are in session;

**[(B)]** during the summer; and

**[(C)]** unless waived by the State involved, on the weekdays in the school year when such schools are not in session;

**[(2)]** provide multigenerational activities in which volunteer older individuals and students interact;

**[(3)]** provide social and recreational activities for volunteer older individuals;

**[(4)]** develop skill banks that maintain and make available to school officials information on the skills and preferred activities of volunteer older individuals, for purposes of providing opportunities for such individuals to serve as tutors, teacher aides, living historians, special speakers, playground supervisors, lunchroom assistants, and in other roles; and

**[(5)]** provide opportunities for volunteer older individuals to participate in school activities (such as classes, dramatic programs, and assemblies) and use school facilities.

**[(b) FEDERAL SHARE.]**—The Federal share of the cost of establishing and operating nutrition and multigenerational activities projects under this subpart shall be 85 percent.

**[SEC. 338A. APPLICATION AND SELECTION OF PROVIDERS.]**

**[(a) CONTENTS OF APPLICATION.]**—To be eligible to carry out a project under the program established under this subpart, an entity shall submit an application to a State agency. Such application shall include—



[(1) a plan describing the project proposed by the applicant and comments on such plan from the appropriate area agency on aging and the appropriate local educational agency (as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891));

[(2) an assurance that the entity shall pay not more than 85 percent of the cost of carrying out such project from funds awarded under this subpart;

[(3) an assurance that the entity shall pay not less than 15 percent of such cost, in cash or in kind, from non-Federal sources;

[(4) information demonstrating the need for such project, including a description of—

[(A) the nutrition services and other services currently provided under this part in the geographic area to be served by such project; and

[(B) the manner in which the project will be coordinated with such services; and

[(5) such other information and assurances as the Commissioner may require by regulation.

[(b) SELECTION AMONG APPLICANTS.—In selecting grant recipients from among entities that submit applications under subsection (a) for a fiscal year, the State agency shall—

[(1) give first priority to entities that carried out a project under this subpart in the preceding fiscal year;

[(2) give second priority to entities that carried out a nutrition project under subpart 1 or title VI in the preceding fiscal year; and

[(3) give third priority to entities whose applications include a plan that involves a school with greatest need (as measured by the dropout rate, the level of substance abuse, and the number of children who have limited-English proficiency or who participate in projects under section 1015 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2025)).

#### **[SEC. 338B. REPORTS.**

[(a) REPORTS BY STATES.—Not later than 60 days after the end of a fiscal year for which a State receives a grant under this subpart, such State shall submit to the Commissioner a report evaluating the projects carried out under this subpart by such State in such fiscal year. Such report shall include for each project—

[(1) a description of—

[(A) persons served;

[(B) multigenerational activities carried out; and

[(C) additional needs of volunteer older individuals and students; and

[(2) recommendations for any appropriate modifications to satisfy the needs described in paragraph (1)(C).

[(b) REPORTS BY COMMISSIONER.—Not later than 120 days after the end of a fiscal year for which funds are appropriated to carry out this subpart, the Commissioner shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing, with respect to each State, and reports submitted under subsection (a) for such fiscal year.

[Subpart 4—General Provisions

**[SEC. 339. COMPLIANCE WITH DIETARY GUIDELINES.**

[A State that establishes and operates a nutrition project under this part shall ensure that the meals provided through the project—

[(1) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture; and

[(2) provide to each participating older individual—

[(A) a minimum of  $33\frac{1}{3}$  percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, if the project provides 1 meal per day;

[(B) a minimum of  $66\frac{2}{3}$  percent of the allowances if the project provides 2 meals per day; and

[(C) 100 percent of the allowances if the project provides 3 meals per day.

**[SEC. 339A. PAYMENT REQUIREMENT.**

[Payments made by a State agency or an area agency on aging for nutrition services (including meals) provided under part A, B, or C may not be reduced to reflect any increase in the level of assistance provided under section 311.

[PART D—IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

[PROGRAM AUTHORIZED

[SEC. 341. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide in-home services to frail older individuals, including in-home supportive services for older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and to the families of such victims.

[(b) In carrying out the provisions of this part, each area agency on aging shall coordinate with other community agencies and voluntary organizations providing counseling and training for family caretakers and support service personnel in management of care, functional and needs assessment services, assistance with locating, arranging for, and coordinating services, case management, and counseling prior to admission to nursing home to prevent premature institutionalization.

[DEFINITION OF IN-HOME SERVICES

[SEC. 342. For purposes of this part, the term “in-home services” includes—

[(1) homemaker and home health aides;

[(2) visiting and telephone reassurance;

[(3) chore maintenance;

[(4) in-home respite care for families and adult day care as a respite service for families;

[(5) minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home and that is not available under other programs, except that not more

than \$150 per client may be expended under this part for such modification;

[(6) personal care services; and

[(7) other in-home services as defined—

[(A) by the State agency in the State plan submitted in accordance with section 307; and

[(B) by the area agency on aging in the area plan submitted in accordance with section 306.

#### [(STATE CRITERIA

[SEC. 343. The State agency shall develop eligibility criteria for providing in-home services to frail older individuals which shall take into account—

[(1) age;

[(2) greatest economic need;

[(3) noneconomic factors contributing to the frail condition; and

[(4) noneconomic and nonhealth factors contributing to the need for such services.

#### [(MAINTENANCE OF EFFORT

[SEC. 344. Funds made available under this part shall be in addition to, and may not be used to supplant, any funds that are or would otherwise be expended under any Federal, State, or local law by a State or unit of general purpose local government (including area agencies on aging which have in their planning and services areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and the families of such victims).

#### [(PART E—ADDITIONAL ASSISTANCE FOR SPECIAL NEEDS OF OLDER INDIVIDUALS

##### [(PROGRAM AUTHORIZED

[SEC. 351. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide services, consistent with the purpose of this title, designed to satisfy special needs of older individuals. Such services include—

[(1) transportation associated with services provided under this title;

[(2) outreach regarding such services;

[(3) targeting such services to older individuals with greatest economic need or greatest social need;

[(4) services under the ombudsman program established under titles III and VII in accordance with section 712; and

[(5) any other service under this title—

[(A) for which the State demonstrates to satisfaction of the Commissioner that there is unmet need; and

[(B) which is appropriate to improve the quality of life of older individuals, particularly those with greatest economic need and those with greatest social need.

【PART F—DISEASE PREVENTION AND HEALTH PROMOTION SERVICES

【PROGRAM AUTHORIZED

【SEC. 361. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide disease prevention and health promotion services and information at multipurpose senior centers, at congregate meal sites, through home delivered meals programs, or at other appropriate sites. In carrying out such program, the Commissioner shall consult with the Directors of the Centers for Disease Control and the National Institute on Aging.

【(b) The Commissioner shall, to the extent possible, assure that services provided by other community organizations and agencies are used to carry out the provisions of this part.

【DISTRIBUTION TO AREA AGENCIES ON AGING

【SEC. 362. The State agency shall give priority, in carrying out this part, to areas of the State—

【(1) which are medically underserved; and

【(2) in which there are a large number of older individuals who have the greatest economic need for such services.

【SEC. 363. DEFINITION.

【As used in this part, the term “disease prevention and health promotion services” means—

【(1) health risk assessments;

【(2) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, and nutrition screening;

【(3) nutritional counseling and educational services for individuals and their primary caregivers;

【(4) health promotion programs, including programs relating to chronic disabling conditions (including osteoporosis and cardiovascular disease) prevention and reduction of effects, alcohol and substance abuse reduction, smoking cessation, weight loss and control, and stress management;

【(5) programs regarding physical fitness, group exercise, and music, art, and dance-movement therapy, including programs for multigenerational participation that are provided by—

【(A) an institution of higher education;

【(B) a local educational agency, as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891); or

【(C) a community-based organization;

【(6) home injury control services, including screening of high-risk home environments and provision of educational programs on injury prevention (including fall and fracture prevention) in the home environment;

【(7) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

[(8) educational programs on the availability, benefits, and appropriate use of preventive health services covered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

[(9) medication management screening and education to prevent incorrect medication and adverse drug reactions;

[(10) information concerning diagnosis, prevention, treatment, and rehabilitation of age-related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction;

[(11) gerontological counseling; and

[(12) counseling regarding social services and followup health services based on any of the services described in paragraphs (1) through (11).

The term shall not include services for which payment may be made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

**[PART G—SUPPORTIVE ACTIVITIES FOR CARETAKERS WHO PROVIDE IN-HOME SERVICES TO FRAIL OLDER INDIVIDUALS**

**[SEC. 381. PROGRAM AUTHORIZED.**

[The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to carry out a program to provide supportive activities for caretakers who provide in-home services to frail older individuals (including older individuals who are victims of Alzheimer's disease or related disorders with neurological and organic brain dysfunction). Such supportive activities may include—

[(1) providing training and counseling for such caretakers;

[(2) technical assistance to such caretakers to assist them to form or to participate in support groups;

[(3) providing information—

[(A) to frail older individuals and their families regarding how to obtain in-home services and respite services; and

[(B) to caretakers who provide such services, regarding—

[(i) how to provide such services; and

[(ii) sources of nonfinancial support available to them as a result of their providing such services; and

[(4) maintaining lists of individuals who provide respite services for the families of frail older individuals.

**[SEC. 382. DEFINITIONS.**

[For purposes of this part, the term “in-home services” has the meaning given such term in section 342.

**[SEC. 383. MAINTENANCE OF EFFORT.**

[Section 344 shall apply with respect to funds made available under this part, in the same manner as such section applies to funds made available under part D.

## [TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS]

### [STATEMENT OF PURPOSE]

[SEC. 401. It is the purpose of this title to expand the Nation's knowledge and understanding of aging and the aging process, to design and test innovative ideas in programs and services for older individuals, and publicly disseminate the results of the tests, to replicate such programs and services under this Act, and to help meet the needs for trained personnel in the field of aging through—

[(1) placing a priority on the education and training of personnel to work with and on behalf of older individuals, with special emphasis on minority individuals, low-income individuals, frail individuals, and individuals with disabilities;

[(2) research and development of effective practices in the field of aging;

[(3) demonstration projects directly related to the field of aging; and

[(4) dissemination of information on aging and the aging process acquired through such programs to public and private organizations or programs for older individuals.

### [ADMINISTRATION]

[SEC. 402. (a) In order to carry out the provisions of this title effectively, the Commissioner shall administer this title through the Administration.

[(b) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the National Institutes of Health, the Department of Veterans Affairs, and Alcohol, Drug Abuse, and Mental Health Administration, and such other agencies and departments of the Federal Government as may be appropriate.

[(c) The Commissioner shall ensure that grants and contracts under this title are equitably awarded to agencies, organizations, and institutions representing minorities.

[(d) The Commissioner shall, in developing priorities, consistent with the requirements of this title, for awarding grants and entering into contracts under this title, consult annually with State agencies, area agencies on aging, recipients of grants under title VI, institutions of higher education, organizations representing beneficiaries of services under this Act, and other organizations, and individuals, with expertise in aging issues.

[(e) The Commissioner shall ensure that grants and contracts awarded under this title—

[(1) are evaluated for their benefit to older individuals, and to programs under this Act; and

[(2) comply with the requirements under this Act.

### [PART A—EDUCATION AND TRAINING]

#### [PURPOSE]

[SEC. 410. The purpose of this part is to improve the quality of services and to help meet critical shortages of adequately trained personnel for programs in the field of aging by—

[(1) identifying both short- and long-range manpower needs in the field of aging;

[(2) providing a broad range of educational and training opportunities to meet those needs;

[(3) attracting a greater number of qualified personnel, with particular emphasis on attracting minority individuals, into the field of aging;

[(4) helping to upgrade personnel training programs to make them more responsive to the need in the field of aging; and

[(5) establishing and supporting multidisciplinary centers of gerontology (including centers of gerontology to improve, enhance, and expand minority personnel and training programs) and providing special emphasis that will improve, enhance, and expand existing training programs.

#### [GRANTS AND CONTRACTS

[SEC. 411. (a) The Commissioner shall make grants and enter into contracts to achieve the purpose of this part. The purposes for which such grants and contracts shall be made include the following:

[(1) To provide comprehensive and coordinated nondegree education, training programs, and curricula at institutions of higher education and at other research, training, or educational organizations, for practitioners in the fields of nutrition, health (including mental health) care, gerontology, supportive services, housing, and long-term care, including the expansion and enhancement of existing inservice education and training programs.

[(2) To provide inservice training opportunities to the personnel of State offices, area agencies on aging, senior centers, and nutrition and counseling programs to strengthen their capacity to remain responsive to the needs of older individuals, with special emphasis on using culturally sensitive practices.

[(3) To provide courses on aging and the dissemination of information about aging to the public through institutions of higher education and other public and nonprofit private organizations and agencies.

[(4) To provide in-service training opportunities and courses of instruction on aging to Indian tribes through public and nonprofit Indian aging organizations.

[(5) To provide annually a national meeting to train directors of programs under title VI.

[(b) To achieve the purpose of this title, the Administration shall conduct both—

[(1) long-term educational activities to prepare personnel for careers in the field of aging; and

[(2) short-term inservice training and continuing education activities for State agency and area agency on aging personnel, and other personnel, in the field of aging or preparing to enter the field of aging.

[(c) In making grants and contracts under this part, the Commissioner shall give special consideration to the recruitment and training of personnel, volunteers, and those individuals preparing for employment in that part of the field of aging which relates to

providing services to individuals with disabilities and to individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction and providing family respite services with respect to such individuals.

[(d) In making grants or contracts under this part, the Commissioner shall ensure that all projects and activities related to personnel training shall include specific data on the number of individuals to be trained and the number of older individuals to be served through such training activities by public and nonprofit agencies, State and area agencies on aging, institutions of higher education, and other organizations.

[(e) From amounts appropriated under 431(b), the Commissioner shall make grants and enter into contracts under this part to establish and carry out a program under which service providers (including family physicians, clergy, and other professionals) will receive training—

[(1) comprised of—

[(A) intensive training regarding normal aging, recognition of problems of older individuals, and communication with providers of mental health services; and

[(B) advanced clinical training regarding means of assessing and treating the problems of older individuals;

[(2) provided by—

[(A) faculty and graduate students in programs of human development and family studies at an institution of higher education;

[(B) mental health professionals; and

[(C) nationally recognized consultants with expertise regarding the mental health problems of individuals residing in rural areas; and

[(3) held in public hospitals throughout each State in which the program is carried out.

#### [MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

[SEC. 412. (a) The Commissioner may make grants to public and private nonprofit agencies, organizations, and institutions for the purpose of establishing or supporting multidisciplinary centers of gerontology, and gerontology centers of special emphasis (including emphasis on nutrition, employment, health (including mental health), disabilities (including severe disabilities), income maintenance, counseling services, supportive services and minority populations). Such centers shall conduct research and policy analysis and function as a technical resource for the Commissioner, policy-makers, service providers, and the Congress. Multidisciplinary centers of gerontology shall—

[(1) recruit and train personnel;

[(2) conduct basic and applied research toward the development of information related to aging;

[(3) stimulate the incorporation of information on aging into the teaching of biological, behavioral, and social sciences at colleges and universities;

[(4) help to develop training programs in the field of aging at schools of public health, education, social work, and psychol-



ogy, and other appropriate schools within colleges and universities;

[(5) serve as a repository of information and knowledge on aging;

[(6) provide consultation and information to public and voluntary organizations, including State agencies and area agencies on aging, which serve the needs of older individuals in planning and developing services provided under other provisions of this Act; and

[(7) if appropriate, provide information relating to assistive technology.

[(b) Centers supported under this section shall provide data to the Commissioner on the projects and activities for which funds are provided under this title. Such data shall include the number of personnel trained, the number of older individuals served, the number of schools assisted, and other information that will facilitate achieving the objectives of this Act.

#### **[PART B—RESEARCH, DEMONSTRATIONS, AND OTHER ACTIVITIES**

##### **[PURPOSE**

[SEC. 420. The purpose of this part is to improve the quality and efficiency of programs serving older individuals through research and development projects, and demonstration projects, designed to—

[(1) develop and synthesize knowledge about aging from multidisciplinary perspectives;

[(2) establish an information base of data and practical experience;

[(3) examine effective models of planning and practice that will improve or enhance services provided under other provisions of this Act;

[(4) evaluate the efficacy, quality, efficiency, and accessibility of programs and services for older individuals; and

[(5) develop, implement, and evaluate innovative planning and practice strategies to address the needs, concerns, and capabilities of older individuals.

##### **[RESEARCH AND DEVELOPMENT PROJECTS**

[SEC. 421. (a) The Commissioner may make grants to any public or nonprofit private agency, organization, or institution, and may enter into contracts with any agency, organization, institution, or individual to support research and development related to the objectives of this Act, evaluation of the results of such research and development activities, and collection and dissemination of information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this title, and conducting of conferences and other meetings for purposes of exchange of information and other activities related to the purposes of this title. Appropriate provisions for the dissemination of resulting information shall be a requirement for all grants made under this section.

[(b) Each research and development activity proposal for which funds are requested under subsection (a) shall include a concise policy or practical application statement.

[(c)(1) The Commissioner shall select, to the extent practicable, for assistance under subsection (a) research activities which will, not later than three years after the date of the enactment of the Older Americans Act Amendments of 1984, collectively—

[(A) contribute to the establishment and maintenance of a demographic data base which contains information on the population of older individuals generally and older individuals categorized by age, sex, race, geographical location, and such other factors as the Commissioner deems useful for the purpose of formulating public policy;

[(B) identify the future needs of older individuals;

[(C) identify the kinds of comprehensiveness of programs required to satisfy such needs; and

[(D) identify the kinds and number of personnel required to carry out such programs.

[(2) The Commissioner shall select, to the extent practicable, for assistance under subsection (a) demonstration projects which test research results and implement innovative ways of satisfying the needs of, and delivering services to, older individuals.

#### [DEMONSTRATION PROJECTS

[SEC. 422. (a)(1) The Commissioner may, after consultation with the State agency in the State involved, make grants to any public agency or nonprofit private organization or enter into contracts with any agency or organization within such State for paying part or all of the cost of developing or operating nationwide, statewide, regional, metropolitan area, county, city, or community model projects which will demonstrate methods to improve or expand supportive services or nutrition services or otherwise promote the well-being of older individuals. The Commissioner shall give special consideration to the funding of rural area agencies on aging to conduct model projects devoted to the special needs of older individuals residing in rural areas. Such projects shall include alternative health care delivery systems, advocacy and outreach programs, and transportation services.

[(2) The Commissioner may, after consultation with the State agency in the State involved, make grants to or enter into contracts with public or private institutions of higher education having graduate programs with capability in public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, or gerontology, for the purpose of designing and developing prototype health education and promotion programs for the use of State and area agencies on aging in implementing disease prevention and health promotion programs (including coordinated multidisciplinary research projects on the aging process).

[(b) In making grants and contracts under subsection (a)(1), the Commissioner shall give special consideration to projects designed to—

[(1) meet the supportive services needs of older individuals who are victims of Alzheimer's disease and related disorders

with neurological and organic brain dysfunction and their families including—

[(A) home health care for such victims; and

[(B) adult day health care for such victims; and

[(C) homemaker aides, transportation, and in-home respite care for the families, particularly spouses, of such victims;

[(2) meet the special health care needs of older individuals, including—

[(A) the location of older individuals who are in need of mental health services;

[(B) the provision of, or arrangement for the provision of, medical differential diagnoses of older individuals to distinguish between their need for mental health services and other medical care;

[(C) the specification of the mental health needs of older individuals, and the mental health and support services required to meet such needs;

[(D) the provision of—

[(i) the mental health and support services specified in subclause (C) in the communities; or

[(ii) such services for older individuals in nursing homes and intermediate care facilities, and training of the employees of such homes and facilities in the provision of such services; and

[(E) the identification and provision of services to older individuals with severe disabilities;

[(3) assist in meeting the special housing needs of older individuals by—

[(A) providing financial assistance to such individuals, who own their own homes, necessary to enable them (i) to make the repairs or renovations to their homes, which are necessary for them to meet minimum standards, and (ii) to install security devices, and to make structural modifications or alterations, designed to prevent unlawful entry; and

[(B) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older individuals suffering from physical disabilities;

[(4) provide education and training to older individuals designed to enable them to lead more productive lives by broadening the education, occupational, cultural, or social awareness of such older individuals;

[(5) provide preretirement education information and relevant services (including the training of personnel to carry out such programs and the conduct of research with respect to the development and operation of such programs) to individuals planning retirement;

[(6) meet the special needs of, and improve the delivery of services to, older individuals who are not receiving adequate services under other provisions of this Act, with emphasis on the needs of low-income, minority, Indian, and limited English-

speaking individuals and older individuals residing in rural areas;

[(7) develop or improve methods of coordinating all available supportive services for the homebound elderly, blind, and disabled by establishing demonstration projects in ten States, in accordance with subsection (c);

[(8) improve transportation systems for older individuals residing in rural areas;

[(9) provide expanded, innovative volunteer opportunities to older individuals which are designed to fulfill unmet community needs, while at the same time avoiding duplication of existing volunteer programs, which may include projects furnishing multigenerational services by older individuals addressing the needs of children, such as—

[(A) tutorial services in elementary and special schools;

[(B) after school programs for latchkey children; and

[(C) voluntary services for child care and youth day care programs;

[(10) meet the service needs of older individuals who provide uncompensated care to their adult children with disabilities, for supportive services relating to such care, including—

[(A) respite services; and

[(B) legal advice, information, and referral services to assist such older individuals with permanency planning for such children;

[(11) advance the understanding of the efficacy and benefits of providing music therapy, art therapy, or dance-movement therapy to older individuals through—

[(A) projects that—

[(i) study and demonstrate the provision of music therapy, art therapy, or dance-movement therapy to older individuals who are institutionalized or at risk of being institutionalized; and

[(ii) provide music therapy, art therapy, or dance movement therapy—

[(I) in nursing homes, hospitals, rehabilitation centers, hospices, or senior centers;

[(II) through disease prevention and health promotion services programs established under part F of title III;

[(III) through in-home services programs established under part D of title III;

[(IV) through multigenerational activities described in section 307(a)(41)(B) or subpart 3 of part C of title III;

[(V) through supportive services described in section 321(a)(21); or

[(VI) through disease prevention and health promotion services described in section 363(5); and

[(B) education, training, and information dissemination projects, including—

[(i) projects for the provision of gerontological training to music therapists, and education and training of individuals in the aging network regarding the efficacy

and benefits of music therapy for older individuals; and

[(ii) projects for disseminating to the aging network and to music therapists background materials on music therapy, best practice manuals, and other information on providing music therapy to older individuals; and

[(12)(A) establish, in accordance with subparagraph (B), nationwide, statewide, regional, metropolitan area, county, city, or community model volunteer service credit projects to demonstrate methods to improve or expand supportive services or nutrition services, or otherwise promote the wellbeing of older individuals;

[(B) for purposes of paying part or all of the cost of developing or operating the projects, in the fiscal year, make not fewer than three and not more than five grants to, or contracts with, public agencies or nonprofit private organizations in such State; and

[(C) ensure that the projects will be operated in consultation with the ACTION Agency and will permit older individuals who are volunteers to earn, for services furnished, credits that may be redeemed later for similar volunteer services.

[(c) The Commissioner shall consult with the Commissioner of the Rehabilitation Services Administration, the Commissioner of the Social Security Administration, and the Surgeon General of the Public Health Service, to develop procedures for—

[(1) identifying elderly, blind, and disabled individuals who need supportive services;

[(2) compiling a list in each community of all services available to the elderly, blind, and disabled; and

[(3) establishing an information and assistance service within the appropriate community agency to—

[(A) inform those in need of the availability of such services; and

[(B) coordinate the delivery of such services to the elderly, blind, and disabled.

The Commissioner shall establish procedures for administering demonstration projects under subsection (b)(6) not later than 6 months after the effective date of this subsection. The Commissioner shall report to the Congress with respect to the results and findings of the demonstration projects conducted under this section at the completion of the projects.

[(d)(1) Whenever appropriate, grants made and contracts entered into under this section shall be developed in consultation with an appropriate gerontology center.

[(2)(A) Grants made and contracts entered into under this section shall include provisions for the appropriate dissemination of project results.

[(B) An agency or organization that receives a grant or enters into a contract to carry out a project described in subparagraph (A) or (B)(i) of subsection (b)(11) shall submit to the Commissioner a report containing—

[(i) the results, and findings based on the results, of such project; and

[(ii) the recommendations of the agency or organization, if the agency or organization provided music therapy, regarding means by which music therapy could be made available, in an efficient and effective manner, to older individuals who would benefit from the therapy.

**[SEC. 423. SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.**

[(a) DEFINITIONS.—As used in this section:

[(1) PROJECT.—The term “Project” means a Project to Improve the Delivery of Long-Term Care Services.

[(2) RESOURCE CENTER.—The term “Resource Center” means a Resource Center for Long-Term Care.

[(b) RESOURCE CENTER.—

[(1) GRANTS AND CONTRACTS.—The Commissioner shall award grants to, or enter into contracts with, eligible entities to support the establishment or operation of not fewer than four and not more than seven Resource Centers in accordance with Paragraph (2).

[(2) REQUIREMENTS.—

[(A) FUNCTIONS.—Each Resource Center that receives funds under this subsection shall, with respect to subjects within an area of speciality of the Resource center—

[(i) perform research;

[(ii) provide for the dissemination of results of the research; and

[(iii) provide technical assistance and training to State agencies and area agencies on aging.

[(B) AREA OF SPECIALITY.—For purposes of subparagraph (A) the term “area of speciality” means—

[(i) Alzheimer’s disease and related dementias, and other cognitive impairments;

[(ii) client assessment and case management;

[(iii) data collection and analysis;

[(iv) home modification and supportive services to enable older individuals to remain in their homes;

[(v) consolidation and coordination of services;

[(vi) linkages between acute care, rehabilitative services, and long-term care, facilities and providers;

[(vii) decisionmaking and bioethics;

[(viii) supply, training, and quality of long-term care personnel, including those who provide rehabilitative services;

[(ix) rural issues, including barriers to access to services;

[(x) chronic mental illness;

[(xi) populations with greatest social need and populations with greatest economic need, with particular attention to low-income minorities; and

[(xii) an area of importance as determined by the Commissioner.

[(c) PROJECTS.—The Commissioner shall award grants to, or enter into contracts with, eligible entities to support the entities in establishing and carrying out not fewer than 10 Projects.

[(d) USE OF FUNDS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), an eligible entity may use funds received under a grant or contract—

[(A) described in subsection (b)(1) to pay for part or all of the cost (including startup cost) of establishing and operating a new Resource Center, or of operating a Resource Center in existence on the day before the date of the enactment of the Older Americans Act Amendments of 1992; or

[(B) described in subsection (c) to pay for part or all of the cost (including startup cost) of establishing and carrying out a Project.

[(2) REIMBURSABLE DIRECT SERVICES.—None of the funds may be used to pay for direct services that are eligible for reimbursement under title XVIII, XIX, or XX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq., or 1397 et seq.).

[(e) PREFERENCE.—In awarding grants, and entering into contracts, under this section, the Commissioner shall give preference to entities that demonstrate that—

[(1) adequate State standards have been developed to ensure the quality of services provided under the grant or contract; and

[(2) the entity has made a commitment to carry out programs under the grant or contract with each State agency responsible for the administration of title XIX or XX of the Social Security Act.

[(f) APPLICATION.—

[(1) IN GENERAL.—To be eligible to receive funds under a grant or contract described in subsection (b)(1) or (c), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

[(2) PROJECT APPLICATION.—An entity seeking a grant or contract under subsection (c) shall submit an application to the Commissioner containing, at a minimum—

[(A) information identifying and describing gaps, weaknesses, or other problems in the delivery of long-term care services in the State or geographic area to be served by the entity, including—

[(i) duplication of functions in the delivery of such services, including duplication at the State and local level;

[(ii) fragmentation of systems, especially in coordinating services to populations of older individuals and other populations;

[(iii) barriers to access for populations with greatest social need and populations with greatest economic need, including minorities and residents of rural areas;

[(iv) lack of financing for such services;

[(v) lack of availability of adequately trained personnel to provide such services; and

[(vi) lack of a range of chronic care services (including rehabilitative strategies) that promote restoration,

maintenance, or improvement of function in older individuals;

[(B) a plan to address the gaps, weaknesses, and problems described in clauses (i) through (v); and

[(C) information describing the extent to which the entity will coordinate with area agencies on aging and service providers in carrying out the proposed Project.

[(g) ELIGIBLE ENTITIES.—

[(1) RESOURCE CENTERS.—Entities eligible to receive grants, or enter into contracts, under subsection (b)(1) shall be—

[(A) institutions of higher education; and

[(B) other public agencies and nonprofit private organizations.

[(2) PROJECTS.—Entities eligible to receive grants, or enter into contracts, under subsection (c) include—

[(A) State agencies; and

[(B) in consultation with State agencies—

[(i) area agencies on aging;

[(ii) institutions of higher education; and

[(iii) other public agencies and nonprofit private organizations.

[(h) REPORT.—The Commissioner shall include in the annual report to the Congress required by section 207, a report on the grants awarded, and contracts entered into, under this section, including—

[(1) an analysis of the relative effectiveness, and recommendations for any changes, of the projects of Resource Centers funded under subsection (b)(1) in the fiscal year for which the Commissioner is preparing the annual report; and

[(2) an evaluation of the needs identified, the agencies utilized, and the effectiveness of the approaches used by projects funded under subsection (c).

[(i) AVAILABILITY OF FUNDS.—The Commissioner shall make available for carrying out subsection (b) for each fiscal year not less than the amount made available in fiscal year 1991 for making grants and entering into contracts to establish and operate Resource Centers under section 423 as in effect on the day before the date of the enactment of the Older Americans Act Amendments of 1992.

#### [SPECIAL DEMONSTRATION AND SUPPORT PROJECTS FOR LEGAL ASSISTANCE FOR OLDER INDIVIDUALS

[SEC. 424. (a) The Commissioner shall make grants and enter into contracts, in order to—

[(1) provide a national legal assistance support system (operated by one or more grantees or contractors) of activities to State and area agencies on aging for providing, developing, or supporting legal assistance for older individuals, including—

[(A) case consultations;

[(B) training;

[(C) provision of substantive legal advice and assistance; and



[(D) assistance in the design, implementation, and administration of legal assistance delivery systems to local providers of legal assistance for older individuals; and

[(2) support demonstration projects to expand or improve the delivery of legal assistance to older individuals with social or economic needs.

[(b) Any grants or contracts made under subsection (a)(2) shall contain assurances that the requirements of section 307(a)(15) are met.

[(c) To carry out subsection (a)(1), the Commissioner shall make grants to or enter into contracts with national nonprofit legal assistance organizations experienced in providing support, on a nationwide basis, to local legal assistance providers.

#### [NATIONAL IMPACT ACTIVITIES

[SEC. 425. (a)(1) The Commissioner may carry out directly or through grants or contracts—

[(A) innovation and development projects and activities of national significance which show promise of having substantial impact on the expansion or improvement of supportive services, nutrition services, or multipurpose senior centers, or otherwise promoting the well-being of older individuals; and

[(B) dissemination of information activities related to such programs.

[(2) The Commissioner shall carry out, directly or through grants or contracts, special training programs and technical assistance designed to improve services to minorities.

[(b) An amount not to exceed 15 percent of any sums appropriated under section 431 may be used for carrying out this section.

#### [UTILITY AND HOME HEATING COST DEMONSTRATION PROJECTS

[SEC. 426. The Secretary may, after consultation with the appropriate State agency, make grants to pay for part or all of the costs of developing model projects which show promise of relieving older individuals of the excessive burdens of high utility service and home heating costs. Any such project shall give special consideration to projects under which a business concern is engaged in providing home heating oil or utility services to low-income older individuals at a cost which is substantially lower than providing home heating oil or utility services to other individuals.

#### [OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS

[SEC. 427. (a) The Commissioner is authorized to make grants to not less than three nor more than ten States to demonstrate and evaluate cooperative projects between the State long-term care ombudsman program, legal assistance agencies, and the State protection and advocacy systems for developmental disabilities and mental illness, established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319).

[(b) The Commissioner on Aging shall prepare and submit to the Congress a report of the study and evaluation required by sub-

section (a). Such report shall contain such recommendations as the Commissioner on Aging deems appropriate.

**【CONSUMER PROTECTION DEMONSTRATION PROJECTS FOR SERVICES PROVIDED IN THE HOME**

**【SEC. 428. (a)(1)** The Commissioner is authorized to make grants to not fewer than 6 nor more than 10 States to demonstrate and evaluate the effectiveness of consumer protection projects for services (other than medical services) provided to older individuals in the home that are furnished or assisted with public funds.

**【(2)** Grants made under this section shall be used to test different approaches to protecting older individuals with regard to services in the home. Such projects may provide consumer protection through State and local ombudsmen, legal assistance agencies, and other community service agencies.

**【(b)** No grant may be made under this section unless an application is made to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each such application shall—

**【(1)** describe activities for which assistance is sought;

**【(2)** provide for an evaluation of the activities for which assistance is sought; and

**【(3)** provide assurances that the applicant will prepare and submit a report to the Commissioner on the activities conducted with assistance under this section and the evaluation of such activities.

**【(c)** In approving applications under this section, the Commissioner shall assure equitable geographic distribution of assistance.

**【(d)** The Commissioner shall, as part of the annual report submitted under section 207, prepare and submit a report on the evaluations submitted under this section, together with such recommendations as the Commissioner deems appropriate. In carrying out this section, the Commissioner shall include in the report—

**【(1)** a description of the demonstration projects assisted under this section;

**【(2)** an evaluation of the effectiveness of each such project; and

**【(3)** recommendations of the Commissioner with respect to the desirability and feasibility of carrying out on a nationwide basis a consumer protection program for services in the home.

**【(e)** Consumer protection projects carried out under this section—

**【(1)** may include, but are not limited to, consumer education, the use of consumer hotlines, receipt and resolution of consumer complaints, and advocacy; and

**【(2)** may not address medical services.

**【SEC. 429. DEMONSTRATION PROJECTS FOR MULTIGENERATIONAL ACTIVITIES.**

**【(a) GRANTS AND CONTRACTS.—**The Commissioner may award grants and enter into contracts with eligible organizations to establish demonstration projects that provide older individuals with multigenerational activities.

[(b) USE OF FUNDS.—An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under subsection (a)—

[(1) to carry out a demonstration project that provides multigenerational activities, including any professional training appropriate to such activities for older individuals; and

[(2) to evaluate the project in accordance with subsection (f).

[(c) AWARDS.—In awarding grants and entering into contracts under subsection (a), the Commissioner shall give preference to—

[(1) eligible organizations with a demonstrated record of carrying out multigenerational activities; and

[(2) eligible organizations proposing projects that will serve older individuals with greatest economic need (with particular attention to low-income minority individuals).

[(d) APPLICATION.—To be eligible to receive a grant or enter into a contract under subsection (a), an organization shall submit an application to the Commissioner at such time, in such manner, and accompanied by such information as the Commissioner may reasonably require.

[(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant or enter into a contract under subsection (a) shall be organizations that employ, or provide opportunities for, older individuals in multigenerational activities.

[(f) LOCAL EVALUATION AND REPORT.—

[(1) EVALUATION.—Each organization receiving a grant or a contract under subsection (a) to carry out a demonstration project shall evaluate the activities assisted under the project to determine the effectiveness of multigenerational activities, the impact of such activities on child care and youth day care programs, and the impact on older individuals involved in such project.

[(2) REPORT.—The organization shall submit a report to the Commissioner containing the evaluation not later than 6 months after the expiration of the period for which the grant or contract is in effect.

[(g) REPORT TO CONGRESS.—Not later than 6 months after the Commissioner receives the reports described in subsection (f)(2), the Commissioner shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that assesses the evaluations and includes, at a minimum—

[(1) the names or descriptive titles of the demonstration projects funded under subsection (a);

[(2) a description of the nature and operation of the projects;

[(3) the name and address of the individual or governmental entity that conducted the projects;

[(4) a description of the methods and success of the projects in recruiting older individuals as employees and volunteers to participate in the project;

[(5) a description of the success of the projects retaining older individuals involved in the projects as employees and as volunteers; and

[(6) the rate of turnover of older individual employees and volunteers in the projects.

[(h) DEFINITION.—As used in this section, the term “multigenerational activity” includes an opportunity to serve as a mentor or adviser in a child care program, a youth day care program, an educational assistance program, an at-risk youth intervention program, a juvenile delinquency treatment program, or a family support program.]

**[SEC. 329A. SUPPORTIVE SERVICES IN FEDERALLY ASSISTED HOUSING DEMONSTRATION PROGRAM.]**

[(a) GRANTS.—The Commissioner shall award grants to eligible agencies to establish demonstration programs to provide services described in subsection (b) to older individuals who are residents in federally assisted housing (referred to in this section as “residents”).]

[(b) USE OF GRANTS.—An eligible agency shall use a grant awarded under subsection (a) to conduct outreach and to provide to residents services including—

- [(1) meal services;
- [(2) transportation;
- [(3) personal care, dressing, bathing, and toileting;
- [(4) housekeeping and chore assistance;
- [(5) nonmedical counseling;
- [(6) case management;
- [(7) other services to prevent premature and unnecessary institutionalization; and
- [(8) other services provided under this Act.]

[(c) AWARD OF GRANTS.—The Commissioner shall award grants under subsection (a) to agencies in a variety of geographic settings, including urban and rural settings.]

[(d) APPLICATION.—To be eligible to receive a grant under subsection (a), an agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

- [(1) information demonstrating a lack of, and need for, services described in subsection (b) in federally assisted housing projects in the geographic area proposed to be served by the applicant;
- [(2) a comprehensive plan to coordinate with housing facility management to provide services to frail older individuals who are in danger of premature or unnecessary institutionalization;
- [(3) information demonstrating initiative on the part of the agency to address the supportive service needs of residents;
- [(4) information demonstrating financial, in-kind, or other support available to the applicant from State or local governments, or from private resources;
- [(5) an assurance that the agency will participate in the development of the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) and seek funding for supportive services under the Department of Housing and Urban Development or the Farmers Home Administration;
- [(6) an assurance that the agency will target services to low-income minority older individuals and conduct outreach;
- [(7) an assurance that the agency will comply with the guidelines described in subsection (f); and

[(8) a plan to evaluate the eligibility of older individuals for services under the federally assisted housing demonstration program, which plan shall include a professional assessment committee to identify such individuals.

[(e) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under this section shall be State agencies and area agencies on aging.

[(f) GUIDELINES.—The Commissioner shall issue guidelines for use by agencies that receive grants under this section—

[(1) regarding the level of frailty that older individuals shall meet to be eligible for services under a demonstration program established under this section; and

[(2) for accepting voluntary contributions from residents who receive services under such a program.

[(g) EVALUATIONS AND REPORTS.—

[(1) AGENCIES.—Each agency that receives a grant under subsection (a) to establish a demonstration program shall, not later than 3 months after the end of the period for which the grant is awarded—

[(A) evaluate the effectiveness of the program; and

[(B) submit a report containing the evaluation to the Commissioner.

[(2) COMMISSIONER.—The Commissioner shall, not later than 6 months after the end of the period for which the Commissioner awards grants under subsection (a)—

[(A) evaluate the effectiveness of each demonstration program that receives a grant under subsection (a); and

[(B) submit a report containing the evaluation to the Speaker of the House of Representatives and the President pro tempore of the Senate.

#### **[SEC. 429B. NEIGHBORHOOD SENIOR CARE PROGRAM.**

[(a) DEFINITIONS.—As used in this section:

[(1) HEALTH AND SOCIAL SERVICES.—The term “health and social services” includes skilled nursing care, personal care, social work services, homemaker services, health and nutrition education, health screening, home health aid services, and specialized therapies.

[(2) VOLUNTEER SERVICES.—The term “volunteer services” includes peer counseling, chore services, help with mail and taxes, transportation, socialization, health and social services, and other similar services.

[(b) SERVICE GRANTS.—

[(1) IN GENERAL.—The Commissioner may award grants to eligible entities to establish neighborhood senior care programs, in order to encourage professionals to provide volunteer services to local residents who are older individuals and who might otherwise have to be admitted to nursing homes and to hospitals.

[(2) PREFERENCE.—In awarding grants under this section, the Commissioner shall give preference to applicants experienced in operating community programs and programs meeting the independent living needs of older individuals.

[(3) ADVISORY BOARD.—The Commissioner shall establish an advisory board to provide guidance to grant recipients regard-

ing the neighborhood senior care programs. Not fewer than two-thirds of the members of the advisory board shall be residents in communities served by the grant recipients.

[(4) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each application shall—

[(A) describe the activities in the program for which assistance is sought;

[(B) describe the neighborhood in which volunteer services are to be provided under the program, and a plan for integration of volunteer services within the neighborhood;

[(C)(i) provide assurances that nurses, social workers, and community volunteers providing volunteer services and an outreach coordinator involved with the project live in the neighborhood; or

[(ii)(I) reasons that it is not possible to provide such assurances; and

[(II) assurances that nurses, social workers, community volunteers and the outreach coordinator will be assigned repeatedly to the particular neighborhood; and

[(D) provide for an evaluation of the activities for which assistance is sought.

[(c) TECHNICAL RESOURCE CENTER.—The Commissioner shall, to the extent appropriations are available, enter into a contract with an applicant described in subsection (b)(2) to establish a technical resource center that will—

[(1) assist the Commissioner in developing criteria for, and in awarding grants to communities to establish, neighborhood senior care organizations that will implement neighborhood senior care programs under subsection (b);

[(2) assist communities interested in establishing such a neighborhood senior care program;

[(3) coordinate the neighborhood senior care programs;

[(4) provide ongoing analysis of and collection of data on the neighborhood senior care programs and provide such data to the Commissioner;

[(5) serve as a liaison to State agencies interested in establishing neighborhood senior care programs; and

[(6) take any further actions as required by regulation by the Commissioner.

**[SEC. 429C. INFORMATION AND ASSISTANCE SYSTEMS DEVELOPMENT PROJECTS.**

[(a) GRANTS.—The Commissioner may—

[(1) make grants to State agencies, and, in consultation with State agencies, to area agencies on aging to support the improvement of information and assistance services, and systems of services, operated at the State and local levels; and

[(2) make grants to organizations to provide training and technical assistance to State agencies, area agencies on aging, and providers of supportive services—

[(A) to support a national telephone access service to inform older individuals, families, and caregivers about State

and local information and assistance services funded under this Act; and

[(B) to support the improvement of information and assistance services, and systems of services, operated at the State and local levels.

[(b) APPLICATION.—To be eligible to receive a grant under subsection (a) an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may specify.

[(c) GUIDELINES.—The Commissioner shall establish guidelines for the operation of the national telephone access service described in subsection (a)(2)(A).

[(d) EVALUATION AND REPORT.—

[(1) EVALUATION.—The Commissioner shall conduct an evaluation of the effectiveness of the national telephone service described in subsection (a)(2)(A) in providing information and assistance services to older individuals, families, and caregivers about State and local information and assistance services.

[(2) REPORT.—Not later than January 1, 1995, the Commissioner shall submit the evaluation described in paragraph (1) to the Speaker of the House of Representatives and the President pro tempore of the Senate.

**[SEC. 429D. SENIOR TRANSPORTATION DEMONSTRATION PROGRAM GRANTS.**

[(a) ESTABLISHMENT.—The Commissioner shall establish and carry out senior transportation demonstration programs. In carrying out the programs, the Commissioner shall award grants to not fewer than five eligible entities for the purpose of improving the mobility of older individuals and transportation services for older individuals (referred to in this section as “senior transportation services”).

[(b) USE OF FUNDS.—Grants made under subsection (a) may be used to—

[(1) develop innovative approaches for improving access by older individuals to supportive services under part B of title III, nutrition services under part C of title III, health care, and other important services;

[(2) develop comprehensive and integrated senior transportation services; and

[(3) leverage additional resources for senior transportation services by—

[(A) coordinating various transportation services; and

[(B) coordinating various funding sources for transportation services, including—

[(i) sources of assistance under—

[(I) sections 9, 16(b)(2), and 18 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App.); and

[(II) titles XIX and XX of the Social Security Act (42 U.S.C. 1396 et seq. and 1397 et seq.); and

[(ii) State and local sources.

[(c) AWARD OF GRANTS.—

[(1) PREFERENCE.—In awarding grants under subsection (a), the Commissioner shall give preference to entities that—

[(A) demonstrates special needs for enhancing senior transportation services and resources for the services within the geographic area served by the entities;

[(B) establish plans to ensure that senior transportation services are coordinated with general public transportation services and other specialized transportation services;

[(C) demonstrate the ability to utilize the broadest range of available transportation and community resources to provide senior transportation services;

[(D) demonstrate the capacity and willingness to coordinate senior transportation services with services provided under title III and with general public transportation services and other specialized transportation services; and

[(E) establish plans for senior transportation demonstration programs designed to serve the special needs of low-income, rural, frail, and other at-risk, transit-dependent older individuals.

[(2) RURAL ENTITIES.—The Commissioner shall award not less than 50 percent of the grants authorized under this section to entities located in, or primarily serving, rural areas.

[(d) APPLICATION.—An entity that seeks a grant under this section shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including at a minimum—

[(1) information describing senior transportation services for which the entity seeks assistance;

[(2) a comprehensive strategy for developing a coordinated transportation system or leveraging additional funding resources, to provide senior transportation services;

[(3) information describing the extent to which the applicant intends to coordinate the services of the applicant with the services of other transportation providers;

[(4) a plan for evaluating the effectiveness of the proposed senior transportation demonstration program and preparing a report containing the evaluation to be submitted to the Commissioner; and

[(5) such other information as may be required by the Commissioner.

[(e) ELIGIBLE ENTITIES.—Entities eligible to receive grants under this section shall be—

[(1) State agencies;

[(2) area agencies on aging; and

[(3) other public agencies and nonprofit organizations.

[(f) REPORT.—

[(1) PREPARATION.—The Commissioner shall prepare, either directly or through grants or contracts, annual reports on the senior transportation demonstration programs established under this section. The reports shall contain an assessment of the effectiveness of each demonstration project and recommendations regarding legislative, administrative, and other initiatives needed to improve the access to and effectiveness of transportation services for older individuals.



[(2) SUBMISSION.—The Commissioner shall submit the report described in paragraph (1) to the Speaker of the House of Representatives and the President pro tempore of the Senate.

**[SEC. 429E. RESOURCE CENTERS ON NATIVE AMERICAN ELDERS.]**

[(a) ESTABLISHMENT.—The Commissioner shall make grants or enter into contracts with not fewer than two and not more than four eligible entities to establish and operate Resource Centers on Native American Elders (referred to in this section as “Resource Centers”). The Commissioner shall make such grants or enter into such contracts for periods of not less than 3 years.

**[(b) FUNCTIONS.—**

[(1) IN GENERAL.—Each Resource Center that receives funds under this section shall—

[(A) gather information;

[(B) perform research;

[(C) provide for the dissemination of results of the research; and

[(D) provide technical assistance and training to entities that provide services to Native Americans who are older individuals.

[(2) AREAS OF CONCERN.—In conducting the functions described in paragraph (1), a Resource Center shall focus on priority areas of concern for the Resource Centers regarding Native Americans who are older individuals, which areas shall be—

[(A) health problems;

[(B) long-term care, including in-home care;

[(C) elder abuse; and

[(D) other problems and issue that the Commissioner determines are of particular importance to Native Americans who are older individuals.

[(c) PREFERENCE.—In awarding grants and entering into contracts under subsection (a), the Commissioner shall give preference to institutions of higher education that have conducted research on, and assessment of, the characteristics and needs of Native Americans who are older individuals.

[(d) CONSULTATION.—In determining the type of information to be sought from, and activities to be performed by, Resource Centers, the Commissioner shall consult with the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and with national organizations with special expertise in serving Native Americans who are older individuals.

[(e) ELIGIBLE ENTITIES.—Entities eligible to receive a grant or enter into a contract under subsection (a) shall be institutions of higher education with experience conducting research and assessment on the needs of older individuals.

[(f) REPORT TO CONGRESS.—The Commissioner, with assistance from each Resource Center, shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the status and needs including the priority areas of concern of Native Americans who are older individuals.

**[SEC. 429F. DEMONSTRATION PROGRAMS FOR OLDER INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.**

**[(a) DEFINITION.—**As used in this section:

**[(1) DEVELOPMENTAL DISABILITY.—**The term “developmental disability” has the meaning given the term in section 102(5) of the Development Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)).

**[(2) IN-HOME SERVICE.—**The term “in-home service” has the meaning given the term in section 342.

**[(b) ESTABLISHMENT.—**The Commissioner shall make grants to State agencies to provide services in accordance with subsection (c).

**[(c) USE OF FUNDS.—**A State agency may use a grant awarded under subsection (b) to provide services for older individuals with developmental disabilities, and for older individuals with caretaker responsibilities for developmentally disabled children, including—

**[(1) child care and youth day care programs;**

**[(2) programs to integrate the individuals into existing programs for older individuals;**

**[(3) respite care;**

**[(4) transportation to multipurpose senior centers and other facilities and services;**

**[(5) supervision;**

**[(6) renovation of multipurpose senior centers;**

**[(7) provision of materials to facilitate, activities for older individuals with developmental disabilities, and for older individuals with caretaker responsibilities for developmentally disabled children;**

**[(8) training of State agency, area agency on aging, volunteer, and multipurpose senior center staff, and other service providers, who work with such individuals, and**

**[(9) in-home services.**

**[(d) APPLICATION.—**To be eligible to receive a grant under the section, a State agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

**[SEC. 429G. HOUSING DEMONSTRATION PROGRAMS.**

**[(a) HOUSING OMBUDSMAN DEMONSTRATION PROGRAMS.—**

**[(1) GRANTS.—**The Commissioner shall award grants to eligible agencies to establish housing ombudsman programs.

**[(2) USE OF GRANTS.—**An eligible agency shall use a grant awarded under paragraph (1) to—

**[(A) provide the services described in subparagraph (B) through—**

**[(i) professional and volunteer staff to older individuals who are—**

**[(I) participating in federally assisted and other publicly assisted housing programs; or**

**[(II) seeking Federal, State, and local housing programs; and**

**[(ii)(I) the State Long-Term Care Ombudsman program under section 307(a)(12) or section 712;**

**[(II) a legal services or assistance organization or through an organization that provides both legal and other social services;**

[(III) a public or not-for-profit social services agency;  
or

[(IV) an agency or organization concerned with housing issues but not responsible for publicly assisted housing.

[(B) establish a housing ombudsman program that provides information, advice, and advocacy services including—

[(i) direct assistance, or referral to services, to resolve complaints or problems;

[(ii) provision of information regarding available housing programs, eligibility, requirements, and application processes;

[(iii) counseling or assistance with financial, social, familial, or other related matters that may affect or be influenced by housing problems;

[(iv) advocacy related to promoting—

[(I) the rights of the older individuals who are residents in publicly assisted housing programs; and

[(II) the quality and suitability of housing in the programs; and

[(v) assistance with problems related to housing regarding—

[(I) threats of eviction or eviction notices;

[(II) older buildings;

[(III) functional impairments as the impairments relate to housing;

[(IV) unlawful discrimination;

[(V) regulations of the Department of Housing and Urban Development and the Farmers Home Administration;

[(VI) disability issues;

[(VII) intimidation, harassment, or arbitrary management rules;

[(VIII) grievance procedures;

[(IX) certification and recertification related to programs of the Department of Housing and Urban Development and the Farmers Home Administration; and

[(X) issues related to transfer from one project or program to another; and

[(3) AWARD OF GRANTS.—The Commissioner shall award grants under paragraph (1) to agencies in rural, urban, and other settings.

[(4) APPLICATION.—To be eligible to receive a grant under paragraph (1), an agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

[(A) an assurance that the agency will conduct training of professional and volunteer staff who will provide services through the housing ombudsman demonstration program;

[(B) in the case of an application submitted by an area agency on aging, an endorsement of the program by the State agency serving the State in which the program will be established, and an assurance by the State agency that the agency will work with the area agency in carrying out the program; and

[(C) a plan to involve in the demonstration program the Secretary of the Department of Housing and Urban Development, the Administrator of the Farmers Home Administration, any individual or entity described in paragraph (2)(A) through which the agency intends to provide the services, and other agencies involved in publicly assisted housing programs.

[(5) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under this section shall include—

[(A) State agencies;

[(B) area agencies on aging; and

[(C) other nonprofit entities, including providers of services under the State Long-Term Care Ombudsman program and the elder rights and legal assistance development program described in chapters 2 and 4, respectively, of subtitle A of title VII.

[(b) FORECLOSURE AND EVICTION ASSISTANCE AND RELIEF SERVICES DEMONSTRATION PROGRAMS.—

[(1) GRANTS.—The Commissioner shall make grants to States to carry out demonstration programs to develop methods or implement laws—

[(A) to prevent or delay the foreclosure on housing owned and occupied by older individuals or the eviction of older individuals from housing the individuals rent;

[(B) to obtain alternative housing as a result of such foreclosure or eviction; and

[(C) to assist older individuals to understand the rights and obligations of the individuals under law relating to housing ownership and occupancy.

[(2) NOTIFICATION PROCESS.—A State that receives a grant under paragraph (1) shall establish methods, including a notification process—

[(A) to assist older individuals who are incapable of, or have difficulty in, understanding the circumstances and consequences of foreclosure on or eviction from housing the individuals occupy; and

[(B) to coordinate the program for which such grant is received with the activities of tenant organizations, tenant-landlord mediation organizations, public housing entities, and area agencies on aging, to provide more effectively assistance or referral to services to relocate or prevent eviction of older individuals from housing the individuals occupy.

[(c) EVALUATIONS AND REPORTS.—

[(1) AGENCIES.—Each agency or State that receives a grant under subsection (a) or (b) to establish a demonstration program shall, not later than 3 months after the end of the period for which the grant is awarded—

[(A) evaluate the effectiveness of the program; and  
 [(B) submit a report containing the evaluation to the Commissioner.

[(2) COMMISSIONER.—The Commissioner shall, not later than 6 months after the end of the period for which the Commissioner awards a grant under subsection (a) or (b)—

[(A) evaluate the effectiveness of each demonstration program that receives the grant; and

[(B) submit a report containing the evaluation to the Speaker of the House of Representatives and the President pro tempore of the Senate.

**[SEC. 429H. PRIVATE RESOURCE ENHANCEMENT PROJECTS.**

**[(a) GRANTS.—**

[(1) IN GENERAL.—The Commissioner may make grants to, and enter into contracts with, State agencies and area agencies on aging, to carry out demonstration projects that generate non-Federal resources (including cash and in-kind contributions), in order to increase resources available to provide additional services under title III.

[(2) MAINTENANCE OF RESOURCES.—Resources generated with a grant made, or contract entered into, under subsection (a) shall be in addition to, and may not be used to supplant, any resource that is or would otherwise be available under any Federal, State, or local law to a State, State agency, area agency on aging, or unit of general purpose local government (as defined in section 302(2)) to provide such services.

[(3) USE OF RESOURCES.—Resources generated with a grant made, or a contract entered into, under subsection (a) shall be used to provide supportive services in accordance with title III. The requirements under this Act that apply to funds received under title III by States to carry out title III shall apply with respect to such resources.

**[(b) AWARD OF GRANTS AND CONTRACTS.—**

[(1) REGIONAL DISTRIBUTION.—The Commissioner shall ensure that States and area agencies on aging in all standard Federal regions of the United States, established by the Office of Management and Budget, receive grants and contracts under subsection (a) on an equitable basis.

[(2) DISTRIBUTION BASED ON NEED.—Within such regions, the Commissioner shall give preference to applicants that provide services under title III in geographical areas that contain a large number of older individuals with greatest economic need or older individuals with greatest social need.

**[(c) MONITORING.—The Commissioner shall monitor how—**

[(1) grants are expended, and contracts are carried out, under subsection (a); and

[(2) resources generated under such grants and contracts are expended,

to ensure compliance with this section.

**[SEC. 429I. CAREER PREPARATION FOR THE FIELD OF AGING.**

[(a) GRANTS.—The Commissioner shall make grants to institutions of higher education, historically black colleges or universities, Hispanic Centers of Excellence in Applied Gerontology, and other

educational institutions that serve the needs of minority students, to provide education and training to prepare students for careers in the field of aging.

[(b) DEFINITIONS.—For purposes of subsection (a):

[(1) HISPANIC CENTER OF EXCELLENCE IN APPLIED GERONTOLOGY.—The term “Hispanic Center of Excellence in Applied Gerontology” means an institution of higher education with a program in applied gerontology that—

[(A) has a significant number of Hispanic individuals enrolled in the program, including individuals accepted for enrollment in the program;

[(B) has been effective in assisting Hispanic students of the program to complete the program and receive the degree involved;

[(C) has been effective in recruiting Hispanic individuals to attend the program, including providing scholarships and other financial assistance to such individuals and encouraging Hispanic students of secondary educational institutions to attend the program; and

[(D) has made significant recruitment efforts to increase the number and placement of Hispanic individuals serving in faculty or administrative positions in the program.

[(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term “historically black college or university” has the meaning given the term “part B institution” in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

**[SEC. 429J. PENSION RIGHTS DEMONSTRATION PROJECTS.**

[(a) DEFINITIONS.—As used in this section:

[(1) PENSION RIGHTS INFORMATION PROGRAM.—The term “pension rights information program” means a program described in subsection (c).

[(2) PENSION AND OTHER RETIREMENT BENEFITS.—The term “pension and other retirement benefits” means private, civil service, and other public pensions and retirement benefits, including benefits provided under—

[(A) the Social Security program under title II of the Social Security Act (42 U.S.C. 401 et seq.);

[(B) the railroad retirement program under the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

[(C) the government retirement benefits programs under the Civil Service Retirement System set forth in chapter 83 of title 5, United States Code, the Federal Employees Retirement System set forth in chapter 84 of title 5, United States Code, or other Federal retirement systems; or

[(D) the Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.).

[(b) ESTABLISHMENT.—The Commissioner shall establish and carry out pension rights demonstration projects.

[(c) PENSION RIGHTS INFORMATION PROGRAMS.—

[(1) USE OF FUNDS.—In carrying out the projects specified in subsection (b), the Commissioner shall, to the extent appropriations are available, award grants to six eligible entities to establish programs to provide outreach, information, counsel-

ing, referral, and assistance regarding pension and other retirement benefits, and rights related to such benefits.

**[(2) AWARD OF GRANTS.—**

**[(A) TYPE OF ENTITY.—**The Commissioner shall award under this subsection—

**[(i)** four grants to State agencies or area agencies on again; and

**[(ii)** two grants to nonprofit organizations with a proven record of providing—

**[(I)** services related to retirement of older individuals; or

**[(II)** specific pension rights counseling.

**[(B) PANEL.—**In awarding grants under this subsection, the Commissioner shall use a citizen advisory panel that shall include representatives of business, labor, national senior advocates and national pension rights advocates.

**[(C) CRITERIA.—**In awarding grants under this subsection, the Commissioner, in consultation with the panel, shall use as criteria—

**[(i)** evidence of commitment of an agency or organization to carry out a proposed pension rights information program;

**[(ii)** the ability of the agency or organization to perform effective outreach to affected populations, particularly populations identified as in need of special outreach; and

**[(iii)** reliable information that the population to be served by the agency or organization has a demonstrable need for the services proposed to be provided under the program.

**[(3) APPLICATION.—**

**[(A) IN GENERAL.—**To be eligible to receive a grant under this subsection, an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as a Commissioner may require, including, at a minimum—

**[(i)** a plan for the establishment of a pension rights information program to serve a specific geographic area; and

**[(ii)** an assurance that staff members, (including volunteer staff members) have no conflict of interest in providing the services described in the plan.

**[(B) PLAN.—**The plan described in paragraph (1) shall provide for a program that—

**[(i)** establishes a State or area pension rights information center;

**[(ii)** provides counseling (including direct counseling and assistance to individuals needing information) and information that may assist individuals in establishing rights to, obtaining, and filing claims or complaints related to, pension and other retirement benefits;

**[(iii)** provides information on sources of pension and other retirement benefits, including the benefits under programs described in subsection (a)(1);

[(iv) makes referrals to legal services and other advocacy programs;

[(v) establishes a system of referral to State, local and Federal departments or agencies related to pension and other retirement benefits;

[(vi) provides a sufficient number of staff positions (including volunteer positions) to ensure information, counseling, referral, and assistance regarding pension and other retirement benefits;

[(vii) provides training programs for staff members, including volunteer staff members of the programs described in subsection (a)(1);

[(viii) makes recommendations to the Administration, the Department of Labor and other local, State, and Federal agencies concerning issues for older individuals related to pension and other retirement benefits; and

[(ix) establishes an outreach program to provide information, counseling, referral, and assistance regarding pension and other retirement benefits, with particular emphasis on outreach to women, minorities and low-income retirees.

**[(d) TRAINING PROGRAM.—**

**[(1) USE OF FUNDS.—**In carrying out the projects described in subsection (b), the Commissioner shall, to the extent appropriations are available, award a grant to an eligible entity to establish a training program to provide—

**[(A)** information to the staffs of entities operating pension rights information programs; and

**[(B)** assistance to the entities and assist such entities in the design of program evaluation tools.

**[(2) ELIGIBLE ENTITY.—**Entities eligible to receive grants under this subsection include nonprofit private organizations with records of providing national information, referral, and advocacy in matters related to pension and other retirement benefits

**[(3) APPLICATION.—**To be eligible to receive a grant under this subsection, an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

**[(e) DURATION.—**The Commissioner may award grants under subsection (c) or (d) for periods not to exceed 18 months.

**[(f) REPORT TO CONGRESS.—**

**[(1) PREPARATION.—**The Commissioner shall prepare a report that.—

**[(A)** summarizes the distribution of funds authorized for grants under this section and the expenditure of such funds;

**[(B)** summarizes the scope and content of training and assistance provided under a program carried out under this section and the degree to which the training and assistance can be replicated;

**[(C)** outlines the problems that individuals participating in programs funded under this section encountered con-



cerning rights related to pension and other retirement benefits; and

[(D) makes recommendations regarding the manner in which services provided in programs funded under this section can be incorporated into the ongoing programs of State agencies, area agencies on aging, multipurpose senior centers, and other similar entities.

[(2) SUBMISSION.—Not later than 30 months after the date of the enactment of this section, the Commissioner shall submit the report described in paragraph (1) to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

[(g) ADMINISTRATIVE EXPENSES.—Of the funds appropriated under section 431(a)(1) to carry out this section for a fiscal year, not more than \$100,000 may be used by the Administration for administrative expenses in carrying out this section.

#### 【PART C—GENERAL PROVISIONS

##### 【AUTHORIZATION OF APPROPRIATIONS

【SEC. 431. (a)(1) There are authorized to be appropriated to carry out the provisions of this title (other than the provision specified in subsection (b)) \$72,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

[(2) Not less than 1 percent of the amount appropriated under paragraph (1) for each fiscal year shall be made available to carry out section 202(d).

[(b) There are authorized to be appropriated to carry out section 411(e), \$450,000 for each of fiscal years 1992, 1993, 1994, and 1995.

[(c) No funds appropriated under this title—

[(1) may be transferred to any office or other authority of the Federal Government which is not directly responsible to the Commissioner;

[(2) may be used for any program or activity which is not specifically authorized by this title; or

[(3) may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this title are separately identified in such grant or payment and are used for the purposes of this title.

##### 【PAYMENTS OF GRANTS

【SEC. 432. (a) To the extent the Commissioner deems it appropriate, the Commissioner shall require the recipient of any grant or contract under this title to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

[(b) Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine.

[(c) The Commissioner shall make no grant or contract under this title in any State which has established or designated a State agency for purposes of title III unless the Commissioner—

[(1) consults with the State agency prior to issuing the grant or contract; and

[(2) informs the State agency of the purposes of the grant or contract when the grant or contract is issued.

#### [RESPONSIBILITIES OF COMMISSIONER

[SEC. 433. (a) The Commissioner shall be responsible for the administration, implementation, and making of grants and contracts under this title and shall not delegate authority under this title to any other individual, agency, or organization.

[(b)(1) Not later than January 1 following each fiscal year, the Commissioner shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report for such fiscal year that describes each project and each program—

[(A) for which funds were provided under this title; and

[(B) that was completed in the fiscal year for which such report is prepared.

[(2) Such report shall contain—

[(A) the name or descriptive title of each project or program;

[(B) the name and address of the individual or governmental entity that conducted such project or program;

[(C) a specification of the period throughout which such project or program was conducted;

[(D) the identity of each source of funds expended to carry out such project or program and the amount of funds provided by each such source;

[(E) an abstract describing the nature and operation of such project or program; and

[(F) a bibliography identifying all published information relating to such project or program.

[(c)(1) The Commissioner shall establish by regulation and implement a process to evaluate the results of projects and programs carried out under this title.

[(2) The Commissioner shall—

[(A) make available to the public each evaluation carried out under paragraph (1); and

[(B) use such evaluation to improve services delivered, or the operation of projects and programs carried out, under this Act.

#### [TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

##### [SHORT TITLE

[ SEC. 501. This title may be cited as the “Older American Community Service Employment Act”.

##### [OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

[SEC. 502. (a) In order to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older and who have poor employment prospects, the Secretary of Labor (hereinafter in

this title referred to as the “Secretary”) is authorized to establish an older American community service employment program.

[(b)(1) In order to carry out the provisions of this title, the Secretary is authorized to enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement the program. No payment shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless the Secretary determines that such project—

[(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

[(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

[(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations other than political parties exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986, except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

[(D) will contribute to the general welfare of the community;

[(E) will provide employment for eligible individuals;

[(F)(i) will result in an increase in employment opportunities over those opportunities which would otherwise be available; (ii) will not result in the displacement of currently employed workers (including partial displacement, such as reduction in hours of nonovertime work or wages or employment benefits); and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

[(G) will not employ or continue to employ any eligible individual to perform work the same or substantially the same as that performed by any other person who is on layoff;

[(H) will utilize methods of recruitment and selection (including listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

[(I) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reason subsistence allowance;

[(J) will assure that safe and healthy conditions of work will be provided, and will assure that individuals employed in community service jobs assisted under this title shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if the participant were not exempt under section 13 thereof, (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for individuals employed in similar public occupations by the same employer;

[(K) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons;

[(L) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this title, in accordance with regulations promulgated by the Secretary;

[(M) will assure, that to the extent feasible, such project will serve the needs of minority, limited English-speaking, and Indian eligible individuals, and eligible individuals who have greatest economic need, at least in proportion to their numbers in the State and take into consideration their rates of poverty and unemployment;

[(N)(i) will prepare an assessment of—

[(I) the participants' skills and talents;

[(II) their need for supportive services; and

[(III) their physical capabilities;

Except to the extent such project has, for the particular participant involved, an assessment of such skills and talents, such need, or such capabilities prepared recently pursuant to another employment or training program (such as a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.));

[(ii) will provide to eligible individuals training and employment counseling based on strategies that identify appropriate employment objectives and the need for supportive services, developed as a result of the assessment provided for in clause (i); and

[(iii) will provide counseling to participants on their progress in meeting such objectives and satisfying their need for supportive services;

[(O) will authorize funds to be used, to the extent feasible, to include individuals participating in such project under any State unemployment insurance plan; and

[(P) will post in such project workplace a notice, and will make available to each person associated with such project a written explanation, clarifying the law with respect to allowable and unallowable political activities under chapter 15 of title 5, United States Code, applicable to the project and to each category of individuals associated with such project and containing the address and telephone number of the Inspector

General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed.

[(2) The Secretary is authorized to establish, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this title.

[(3) The Secretary shall develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to prime sponsors, labor organizations, groups representing business and industry and workers as well as to individual employers, where appropriate.

[The Secretary may enter into an agreement with the Administrator of the Environmental Protection Agency to establish a Senior Environmental Employment Corps.

[(c)(1) The Secretary is authorized to pay not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Secretary of Health and Human Services.

[(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

[(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than 13.5 percent for fiscal year 1987 and each fiscal year thereafter shall be available for paying the costs of administration for such project, except that—

[(A) whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based on information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project; and

[(B) whenever the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b) demonstrates to the secretary that—

[(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and other operation requirements imposed by the Secretary;

[(ii) the number of employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available for paying the cost of administration is not increased; or

[(iii) the size of the project is so small that the amount of administrative expenses incurred to carry out the project necessarily exceed 13.5 percent of the amount for such project;

the Secretary shall increase the amount available for the fiscal year for paying the cost of administration to an amount not more than 15 percent of the cost of such project.

[(d)(1) Whenever a national organization or other program sponsor conducts a project within a planning and service area in a State such organization or program sponsor shall conduct such project in consultation with the area agency on aging of the planning and service area and shall submit to the State agency and the area agency on aging a description of such project to be conducted in the State, including the location of the project, 30 days prior to undertaking the project, for review and comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title.

[(2) The Secretary shall review on his own initiative or at the request of any public or private nonprofit agency or organization, or an agency of the State government, the distribution of programs under this title within the State including the distribution between urban and rural areas within the State. For each proposed reallocation of programs within a State, the Secretary shall give notice and opportunity for a hearing on the record by all interested individuals and make a written determination of his findings and decision.

[(e)(1) The Secretary, in addition to any other authority contained in this title, shall conduct experimental projects designed to assure second career training and the placement of eligible individuals in employment opportunities with private business concerns. The Secretary shall enter into such agreements with States, public agencies, nonprofit private organizations and private business concerns as may be necessary to conduct the experimental projects authorized by this subsection. The Secretary from amounts reserved under section 506(a)(2)(A) in any fiscal year, may pay all of the costs of any agreements entered into under the provisions of this subsection. The Secretary shall, to the extent feasible, assure equitable geographic distribution of projects authorized by this subsection.

[(2) The Secretary shall issue, and amend from time to time, criteria designed to assure that agreements entered into under paragraph (1) of this subsection—

[(A) will involve different kinds of work modes, such as flex-time, job sharing, and other arrangements relating to reduced physical exertion;

[(B) will emphasize projects involving second careers and job placement and give consideration to placement in growth industries and in jobs reflecting new technological skills; and

[(C) require the coordination of projects carried out under such agreements, with the programs carried out under section 124 of the Job Training Partnership Act (29 U.S.C. 1534).

[(3)(A) The Secretary shall carry out an evaluation of the second career training and job placement projects authorized by this subsection.

[(B) The evaluation shall include but not be limited to the projects described in paragraph (2).

[(C) The Secretary shall prepare and submit, not later than one year after the enactment of the Older Americans Act Amendments

of 1981, to the Congress an interim report describing the agreements entered into under paragraph (1) and the design for the evaluation required by this paragraph. The Secretary shall prepare and submit to the President and the Congress a final report on the evaluation required by this paragraph. The Secretary shall prepare and submit to the President and the Congress a final report on the evaluation required by this paragraph not later than February 1, 1984, together with his findings and such recommendations, including recommendations for additional legislation, as the Secretary deems appropriate.

[(D) The Secretary shall make the final report submitted under subparagraph (C) available to interested private business concerns.

[(4) For the purpose of this subsection, "eligible individual" means any individual who is 55 years of age or older and who has an income equal to or less than the intermediate level retired couples budget as determined annually by the Bureau of Labor Statistics.

#### 【ADMINISTRATION

【SEC. 503. (a)(1) In order to effectively carry out the provisions of this title, the Secretary shall, through the Commissioner, consult with the State agency and the appropriate area agencies on aging established under section 305(a)(2) with regard to—

[(A) the localities in which community service projects of the type authorized by this title are most needed;

[(B) consideration of the employment situations and the type of skills possessed by available local individuals who are eligible to participate; and

[(C) potential projects and the number and percentage of eligible individuals in the local population.

[(2) The Secretary of Labor and the Commissioner shall coordinate the programs under this title and the programs under titles III, IV, and VI to increase job opportunities available to older individuals.

[(b)(1) The Secretary shall coordinate the program assisted under this title with programs authorized under the Job training Partnership Act, the Community Services Block Grant Act, and the Vocational Education Act of 1984. The Secretary shall coordinate the administration of this title with the administration of titles III, IV, and VI by the Commissioner, to increase the likelihood that eligible individuals for whom employment opportunities under this title are available and who need services under such titles receive such services. Appropriations under this Act may not be used to carry out any program under the Job Training Partnership Act, the Community Services Block Grant Act, or the Vocational Education Act of 1984. The preceding sentence shall not be construed to prohibit carrying out projects under this title jointly with programs, projects, or activities under any Act specified in such sentence.

[(2) The Secretary shall distribute to grantees under this title, for distribution to program enrollees, and at no cost to grantees or enrollees, information materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies which the Secretary determines are designed to

help enrollees identify age discrimination and understand their rights under the Age Discrimination in Employment Act of 1967.

[(c) In carrying out the provisions of this title, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

[(d) Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

[(e) The Secretary shall not delegate any function of the Secretary under this title to any other department or agency of the Federal Government.

[(f) In carrying out the provisions of this title, the Secretary may fund and expand projects concerning the Senior Environmental Employment Corps and energy conservation from sums appropriated under section 508 for such fiscal year.

#### 【PARTICIPANTS NOT FEDERAL EMPLOYEES

【SEC. 504. (a) Eligible individuals who are employed in any project funded under this title shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

[(b) No contract shall be entered into under this title with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the persons employed under the contract shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

#### 【INTERAGENCY COOPERATION

【SEC. 505. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner prior to the establishment of rules or the establishment of general policy in the administration of this title.

[(b) The Secretary shall consult and cooperate with the Director of the Office of Community Services, the Secretary of Health and Human Services, and the heads of other Federal agencies carrying out related programs, in order to achieve optimal coordination with such other programs. In carrying out the provisions of this section, the Secretary shall promote programs or projects of a similar nature. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this title and in promoting the identification and interests of individuals eligible for employment in projects assisted under this title.

[(c) In administering projects under this title concerning the Senior Environmental Employment Corps and energy conservation, the Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Energy and shall enter into an agreement with the Administrator and the Secretary



of Energy to coordinate programs conducted by them with such projects.

[(d)(1) The Secretary shall promote and coordinate carrying out projects under this title jointly with programs, projects, or activities under other Acts that provide training and employment opportunities to eligible individuals.

[(2) The Secretary shall consult with the Secretary of Education to promote and coordinate carrying out projects under this title jointly with employment and training programs in which eligible individuals may participate that are carried out under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

#### [EQUITABLE DISTRIBUTION OF ASSISTANCE

[SEC. 506. (a)(1)(A) Subject to subparagraph (B) and paragraph (2), from sums appropriated under this title for each fiscal year, the Secretary shall first reserve such sums as may be necessary for national grants or contracts with public agencies and public or nonprofit private organizations to maintain the level of activities carried on under such grants or contracts at least at the level of such activities supported under this title and under any other provision of Federal law relating to community service employment programs for older Americans in fiscal year 1978.

[(B)(i)(I) For each fiscal year in which the sums appropriated under this title exceed the amount appropriated under this title for fiscal year 1978, the Secretary shall reserve not more than 45 percent of such excess, except as provided in subclause (II), to carry out clauses (ii), (iii), and (v).

[(II) The Secretary shall reserve a sum sufficient to carry out clauses (iii) and (v).

[(III) The Secretary in awarding grants and contracts under this paragraph from the sum reserved under this paragraph shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts designed to achieve the allotment among the States described in paragraph (3) of this subsection.

[(ii) The Secretary shall reserve such sums as may be necessary for national grants or contracts with public or nonprofit national Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide employment services to older Pacific Island and Asian Americans.

[(iii) If the amount appropriated under this title for a fiscal year exceeds 102 percent of the amount appropriated under this title for fiscal year 1991, for each fiscal year described in clause (iv), the Secretary shall reserve for recipients of national grants and contracts under this paragraph such portion of the excess amount as the Secretary determines to be appropriate and is—

[(I) at least 25 percent of the excess amount; or

[(II) the portion required to increase the amount made available under this paragraph to each of the recipients so that the amount equals 1.3 percent of the amount appropriated under this title for fiscal year 1991.

[(iv) From the portion reserved under clause (iii), the Secretary shall increase the amount made available under this paragraph to each of the recipients—

[(I) for each fiscal year before the fiscal year described in subclause (II), so that such amount equals, or more closely approaches, such 1.3 percent; and

[(II) for the first fiscal year for which the portion is sufficient to make available under this paragraph to each of the recipients the amount equal to such 1.3 percent, so that such amount is not less than such 1.3 percent.

[(v) For each fiscal year after the fiscal year described in clause (iv)(II), the Secretary shall make available under this paragraph to each of the recipients an amount not less than such 1.3 percent.

[(C) Preference in awarding grants and contracts under this paragraph shall be given to national organizations, and agencies, of proven ability in providing employment services to eligible individuals under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts, in the aggregate, among the States, taking into account the needs of underserved States, subject to subparagraph (B)(i)(III).

[(2)(A) From sums appropriated under this title for each fiscal year after September 30, 1978, the Secretary shall reserve an amount which is at least 1 percent and not more than 3 percent of the amount appropriated in excess of the amount appropriated for fiscal year 1978 for the purpose of entering into agreements under section 502(e), relating to improved transition to private employment.

[(B) After the Secretary makes the reservations required by paragraph (1)(B) and subparagraph (A), the remainder of such excess shall be allotted to the appropriate public agency of each State pursuant to paragraph (3).

[(3) The Secretary shall allot to the State agency on aging of each State the remainder of the sums appropriated for any fiscal year under section 508 so that each State will receive an amount which bears the same ratio to such remainder as the product of the number of persons aged fifty-five or over in the State and the allotment percentage of such State bears to the sum of the corresponding product for all States, except that (A) no State shall be allotted less than one-half of 1 percent of the remainder of the sums appropriated for the fiscal year for which the determination is made, or \$100,000, whichever is greater, and (B) Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount which is not less than one-fourth of 1 percent of the remainder of the sums appropriated for the fiscal year for which the determination is made, or \$50,000, whichever is greater. For the purpose of the exception contained in this paragraph the term "State" does not include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and the Trust Territory of the Pacific Islands.

[(4) For the purpose of this subsection—

[(A) the allotment percentage of each State shall be 100 percent less that percentage which bears the same ratio to 50 percent as the per capita income of such State bears to the per capita income of the United States, except that (i) the allotment percentage shall in no case be more than 75 percent or less than  $33\frac{1}{3}$  percent, and (ii) the allotment percentage for the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 75 percent;

[(B) the number of persons aged fifty-five or over in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to the Secretary; and

[(C) for the purpose of determining the allotment percentage, the term "United States" means the fifty States and the District of Columbia.

[(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallocated, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amount reallocated to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

[(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each area bears to the total number of such individuals, respectively, in that State, (2) the relative distribution of such individuals residing in rural and urban areas within the State, and (3) the relative distribution of (A) such individuals who are individuals with greatest economic need, (B) such individuals who are minority individuals, and (C) such individuals who are individuals with greatest social need.

[(d) The Secretary shall require the State agency for each State receiving funds under this title to report at the beginning of each fiscal year on such State's compliance with subsection (c). Such report shall include the names and geographic location of all projects assisted under this title and carried out in the State and the amount allotted to each such project.

#### DEFINITIONS

[SEC. 507. As used in this title—

[(1) the term "eligible individual" means an individual who is fifty-five years old or older, who has a low income (including any such individual whose income is not more than 125 per-

cent of the poverty line), except that, pursuant to regulations prescribed by the Secretary, any such individual who is sixty years old or older shall have priority for the work opportunities provided for under this title;

[(2) the term “community service” means social, health, welfare, and educational services (particularly literacy tutoring), legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; weatherization activities; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe;

[(3) the term “program” means the older American community service employment program established under this title; and

[(4) the term “Pacific Island and Asian Americans” means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

#### [AUTHORIZATION OF APPROPRIATIONS

[SEC. 508. (a) There is authorized to be appropriated to carry out this title—

[(1) \$470,671,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995; and

[(2) such additional sums as may be necessary for each such fiscal year to enable the Secretary, through programs under this title, to provide for at least 70,000 part-time employment positions for eligible individuals.

For purposes of paragraph (2), “part-time employment position” means an employment position within a workweek of at least 20 hours.

[(b) Amounts appropriated under this section for any fiscal year shall be used during the annual period which begins on July 1 of the calendar year immediately following the beginning of such fiscal year and which ends on June 30 of the following calendar year. The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency receiving funds under this title if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency. Any such extension shall be for a period of not more than 60 days after the end of such annual period.

#### [EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS

[SEC. 509. Funds received by eligible individuals from projects carried out under the program established in this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may

be available or for any income determination under the Food Stamp Act. of 1977

**[SEC. 510. DUAL ELIGIBILITY.**

**[In the case of projects under this title carried out jointly with programs carried out under the Job Training Partnership Act, eligible individuals shall be deemed to satisfy the requirements of section 203 of such Act (29 U.S.C. 1603) that are applicable to audits.**

**[SEC. 511. TREATMENT OF ASSISTANCE.**

**[Assistance furnished under this title shall not be construed to be financial assistance described in section 245A(h)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(1)(A)).]**

*TITLE I—GENERAL PROVISIONS*

*Subtitle A—Core Objectives and Definitions*

*Sec. 101. Core objectives.*

*Sec. 102. Definitions.*

*Subtitle B—Administration*

*Sec. 111. Establishment of Administration on Aging.*

*Sec. 112. Functions of the Assistant Secretary.*

*Sec. 113. Reports.*

*Sec. 114. Reduction of paperwork.*

*Sec. 115. Surplus property eligibility.*

*Sec. 116. Treatment of costs.*

*Sec. 117. Disaster relief.*

*Sec. 118. Authorization of appropriations.*

*Subtitle C—Funding*

*Sec. 121. Allotments; Federal share.*

*Sec. 122. Authorization of appropriations.*

*Sec. 123. Additional funds available for nutrition services.*

*TITLE II—STATE PROGRAMS ON AGING*

*Subtitle A—General Provisions*

*Sec. 201. Eligibility of States.*

*Sec. 202. State plans.*

*Sec. 203. Planning, coordination, evaluation, and administration of State plans.*

*Sec. 204. Payments.*

*Subtitle B—State Long-Term Care Ombudsman Program*

*Sec. 211. Establishment.*

*Sec. 212. Requirements for State long-term care ombudsman program.*

*Subtitle C—Senior Community Service Employment Program*

*Sec. 221. Short title.*

*Sec. 222. Definitions.*

*Sec. 223. Senior community service employment program.*

*Sec. 224. Participants not Federal employees.*

*Sec. 225. Employment assistance and Federal housing and food stamp programs.*

*Subtitle D—Disease Prevention and Health Promotion Program*

*Sec. 231. Establishment of grant program.*

*Sec. 232. Distribution to area agencies on aging.*

*TITLE III—LOCAL PROGRAMS ON AGING*

*Subtitle A—General Provisions*

*Sec. 301. Eligibility of local organizations.*

*Sec. 302. Area plans.*

*Sec. 303. Services provided by charitable, religious, or private organizations.*

*Subtitle B—Supportive Services and Senior Centers**Sec. 311. Program authorized.**Subtitle C—Nutrition Services**Sec. 321. Program authorized.**Sec. 322. Additional requirements.***TITLE IV—NATIVE AMERICAN PROGRAMS ON AGING***Sec. 401. Grants for services to Native Americans.**Sec. 402. Applicants for grants.**Sec. 403. Distribution of funds among eligible organizations.**Sec. 404. Surplus educational facilities.**Sec. 405. Administration.**Sec. 406. Payments.**Sec. 407. Authorization of appropriations.***TITLE I—GENERAL PROVISIONS***Subtitle A—Core Objectives and Definitions***SEC. 101. CORE OBJECTIVES.**

*It is the purpose of this Act to fulfill the responsibility of the United States to assist older individuals to remain living independently and with dignity for as long as possible in their communities, and to encourage and assist State agencies, area agencies on aging, and Indian tribes in concentrating resources and collaborating with the private sector in order to—*

*(1) develop greater capacity, and foster the development and implementation of comprehensive and coordinated systems to serve older individuals, by entering into cooperative arrangements in each State for the planning and provision of supportive services (including services to support multipurpose senior centers), nutrition services, State long-term care ombudsman programs, senior community service employment programs, and disease prevention and health promotion programs; and*

*(2) achieve core objectives consisting of—*

*(A) securing and maintaining maximum independence and dignity in a home environment for older individuals capable of self-care with appropriate supportive services and nutrition services;*

*(B) removing individual and social barriers to personal independence for older individuals;*

*(C) promoting a continuum of care for vulnerable older individuals;*

*(D) fostering ways for older individuals to receive managed in-home and community-based long-term care services;*

*(E) ensuring that older individuals will be protected against abuse, neglect, and exploitation; and*

*(F) promoting employment opportunities and community services for older individuals.*

**SEC. 102. DEFINITIONS.**

*Except as otherwise provided in this Act, as used in this Act:*

*(1) ABUSE.—The term “abuse” means (except when the term is used as part of the term “drug and alcohol abuse”) the willful—*

(A) *infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or*

(B) *deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.*

(2) *ADMINISTRATION.*—The term “Administration” means the *Administration on Aging.*

(3) *ADULT CHILD WITH A DISABILITY; ADULT CHILDREN WITH DISABILITIES.*—

(A) *ADULT CHILD WITH A DISABILITY.*—The term “adult child with a disability” means a child who—

(i) *is 18 years of age or older;*

(ii) *is financially dependent on an older individual who is a parent of the child; and*

(iii) *has a disability.*

(B) *ADULT CHILDREN WITH DISABILITIES.*—The term “adult children with disabilities” means more than 1 adult child with a disability.

(4) *ALASKA NATIVE.*—The term “Alaska Native” means an individual who is a member of an Alaska Native organization.

(5) *ALASKA NATIVE ORGANIZATION.*—The term “Alaska Native organization” means a Native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Alaska Natives because of their status as Alaska Natives.

(6) *AREA AGENCY ON AGING.*—The term “area agency on aging” means an area agency on aging designated under section 201(a)(2)(A), a State agency performing the functions of an area agency on aging as the result of a designation of the entire State as a single planning and service area, or a State agency that is administering a program under section 302(c)(3) (for purposes of provisions relating to such program).

(7) *ASSISTANT SECRETARY.*—The term “Assistant Secretary” means the Assistant Secretary for Aging.

(8) *ASSISTIVE TECHNOLOGY.*—The term “assistive technology” means technology, an engineering methodology, or a scientific principle, appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.

(9) *BOARD AND CARE FACILITY.*—The term “board and care facility” means an institution regulated by a State pursuant to section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e)).

(10) *CAREGIVER.*—The term “caregiver” means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law.

(11) *CARETAKER.*—The term “caretaker” means a family member or other individual who provides (on behalf of such individual or of a public or nonprofit private agency, organization, or institution) uncompensated care to an older individual who needs supportive services.

(12) *CASE MANAGEMENT SERVICE.*—The term “case management service”—

(A) means assessment, development, and implementation, carried out in cooperation with an older individual (or the caregiver or caretaker of the individual, where appropriate), of a care plan—

(i) by an individual who is trained or experienced in the case management skills that are required to deliver the services and coordination described in subparagraph (B); and

(ii) to assess the needs, and to arrange, coordinate, and monitor an optimum package of services to meet the needs, of the older individual; and

(B) includes services and coordination such as—

(i) comprehensive assessment of the older individual (including the physical, psychological, environmental, economic, and social needs of the individual);

(ii) development and implementation of a service plan with the older individual to mobilize the formal and informal resources and services identified in the assessment, including assistive technology, to meet the needs of the older individual, including coordination of the resources and services—

(I) with the services identified in any other plans that exist for various formal services, such as hospital discharge plans; and

(II) with the information and assistance services provided under this Act;

(iii) coordination and monitoring of formal and informal service delivery, including coordination and monitoring to ensure that services specified in the plan, including assistive technology, are being provided;

(iv) periodic reassessment and revision of the status of the older individual with—

(I) the older individual; or

(II) if appropriate, a caregiver or caretaker of the older individual; and

(v) in accordance with the wishes of the older individual, advocacy on behalf of the older individual for needed services or resources.

(13) *CHILD.*—The term “child” means (except when the term appears as part of the term “adult child with a disability”) an individual who is less than 18 years of age.

(14) *COMMUNITY SERVICES.*—The term “community services” means—

(A) social, health, welfare, and educational services (particularly literacy tutoring);

(B) legal and other counseling services and assistance, including tax counseling and assistance and financial counseling;

(C) library and recreational services, and other similar services;

(D) conservation, maintenance, or restoration of natural resources;



- (E) community betterment or beautification;
  - (F) antipollution and environmental quality efforts;
  - (G) weatherization activities;
  - (H) economic development;
  - (I) services for a business, to the extent permitted by section 223(b)(3); and
  - (J) such other services as the Secretary determines by regulation to be essential and necessary to the community.
- (15) *COMPREHENSIVE AND COORDINATED SYSTEM.*—The term “comprehensive and coordinated system” means a system for providing all necessary supportive services, and nutrition services, in a manner designed to—
- (A) facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by such system by any public or nonprofit private agency, organization, or institution;
  - (B) develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older individuals;
  - (C) use available resources efficiently and with a minimum of duplication; and
  - (D) encourage and assist public and private entities that have unrealized potential for meeting the service needs of older individuals to assist the older individuals on a voluntary basis.
- (16) *DISABILITY.*—The term “disability” means (except when the term is used as part of the term “severe disability”, “developmental disabilities”, “physical and mental disabilities”, or “physical disabilities”) a condition attributable to a mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following major life activities:
- (A) Self-care.
  - (B) Use of receptive and expressive language.
  - (C) Learning.
  - (D) Achievement of mobility.
  - (E) Self-direction.
  - (F) Independent living.
  - (G) Achievement of economic self-sufficiency.
  - (H) Cognitive functioning.
  - (I) Emotional adjustment.
- (17) *ELDER ABUSE, NEGLECT, AND EXPLOITATION.*—The term “elder abuse, neglect, and exploitation” means abuse, neglect, and exploitation, of an older individual.
- (18) *EXPLOITATION.*—The term “exploitation” means the illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain.
- (19) *FOCAL POINT.*—The term “focal point” means an entity that maximizes the collocation and coordination of services for older individuals.
- (20) *FRAIL.*—The term “frail” means, with respect to an older individual in a State, that the older individual is determined to be functionally impaired because the individual—

(A)(i) is unable to perform at least 2 activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

(ii) at the option of the State, is unable to perform at least 3 such activities without such assistance; or

(B) due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

(21) *GREATEST ECONOMIC NEED.*—The term “greatest economic need” means the need resulting from an income level at or below the poverty line.

(22) *GREATEST SOCIAL NEED.*—The term “greatest social need” means the need caused by noneconomic factors that include—

(A) physical and mental disabilities;

(B) language barriers; and

(C) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that—

(i) restricts the ability of an individual to perform normal daily tasks; or

(ii) threatens the capacity of the individual to live independently.

(23) *IN-HOME SERVICES.*—The term “in-home services” includes—

(A) services of homemaker and home health aides;

(B) visiting and telephone reassurance;

(C) chore maintenance;

(D) in-home respite care for families, and adult day-care as a respite service for families;

(E) minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home and that is not available under programs carried out under other Acts, except that not more than \$150 per client may be expended under this Act for such modification;

(F) personal care services; and

(G) other in-home services as defined—

(i) by the State agency in the State plan submitted in accordance with section 202; and

(ii) by the area agency on aging in the area plan submitted in accordance with section 302.

(24) *INDIAN.*—The term “Indian” means—

(A) except as used in title IV, an individual who is a member of an Indian tribe; and

(B) as used in title IV, an individual who is a member of an Indian tribe, as defined in paragraph (25)(B).

(25) *INDIAN TRIBE.*—The term “Indian tribe” means—

(A) except as used in title IV, any tribe, band, nation, or other organized group or community that is—

(i) recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

(ii) located on, or in proximity to, a Federal reservation or rancheria; and

(B) as used in title IV, any tribe, band, nation, or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(26) **INFORMATION AND ASSISTANCE SERVICE.**—The term “information and assistance service” means a service for older individuals that—

(A) provides the individuals with current information (as of the date the information is provided) on opportunities and services available to the individuals within their communities, including information relating to assistive technology;

(B) assesses the problems and capacities of the individuals;

(C) links the individuals to the opportunities and services that are available;

(D) educates the individuals about insurance benefits and public benefits (including various health care benefit options available to qualified medicare beneficiaries, as defined in section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), within an area, such as fee-for-service options, health maintenance organization and other managed care options, and benefits through medicare supplemental policies);

(E) to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate followup procedures; and

(F) serves an entire community of older individuals, particularly—

(i) older individuals with greatest social need; and

(ii) older individuals with greatest economic need.

(27) **INSURANCE BENEFIT.**—The term “insurance benefit” means a benefit under—

(A) the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(B) the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(C) a public or private insurance program;

(D) a medicare supplemental policy; or

(E) a pension plan.

(28) **LEGAL ASSISTANCE.**—The term “legal assistance”—

(A) means legal advice and representation provided by an attorney to an older individual with economic or social needs; and

(B) includes—

(i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney to such an older individual; and

(ii) counseling or representation by a nonlawyer where permitted by law to such an older individual.

(29) **LONG-TERM CARE FACILITY.**—The term “long-term care facility” means—

- (A) any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a));
  - (B) any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));
  - (C) as used in section 212, a board and care facility; and
  - (D) any other adult care home similar to a facility or institution described in subparagraph (A), (B), or (C).
- (30) *LOW-INCOME*.—The term “low-income”, used with respect to an individual, means—
- (A) except as used in subtitle C of title II, an individual who is a member of a family that has an income that is not more than 150 percent of the poverty line; and
  - (B) as used in subtitle C of title II, an individual who is a member of a family that has an income that is not more than 125 percent of the poverty line.
- (31) *MEDICARE SUPPLEMENTAL POLICY*.—The term “medicare supplemental policy” has the meaning given the term in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)).
- (32) *MULTIPURPOSE SENIOR CENTER*.—The term “multipurpose senior center” means a community facility for the organization and provision of a broad spectrum of services for older individuals, which may include the provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities, for older individuals.
- (33) *NATIVE AMERICAN*.—The term “Native American” means—
- (A) an Indian;
  - (B) an Alaska Native; or
  - (C) a Native Hawaiian.
- (34) *NATIVE HAWAIIAN*.—The term “Native Hawaiian” means any individual any of whose ancestors were natives of the area that consists of the Hawaiian Islands prior to 1778.
- (35) *NEGLECT*.—The term “neglect” means—
- (A) the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or
  - (B) the failure of a caregiver to provide the goods or services.
- (36) *NONPROFIT*.—The term “nonprofit”, used with respect to any agency, institution, or organization, means an agency, institution, or organization that is, or is owned and operated by, 1 or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.
- (37) *NUTRITION SERVICES*.—The term “nutrition services” means the services authorized to be provided through a project carried out under subtitle C of title III (including similar services provided under title IV).
- (38) *OLDER INDIVIDUAL*.—The term “older individual” means—
- (A) except as used in subtitle C of title II, an individual who is 60 years of age or older; and

(B) as used in subtitle C of title II, an individual who is 55 years of age or older.

(39) *PENSION PLAN*.—The term “pension plan” means an employee pension benefit plan, as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)).

(40) *PHYSICAL HARM*.—The term “physical harm” means bodily injury, bodily impairment, or disease.

(41) *PLANNING AND SERVICE AREA*.—The term “planning and service area” means an area designated by a State agency under section 201(a)(1)(E), including a single planning and service area described in section 301(a)(1)(E), an area designated as described in subsection (c), (d), or (e) of section 201, and a remaining area described in section 201(c)(2).

(42) *POVERTY LINE*.—The term “poverty line” means the poverty line (as defined by the Office of Management and Budget, and revised annually by the Secretary in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(43) *PUBLIC BENEFIT*.—The term “public benefit” means a benefit under—

(A) the Federal Old-Age, Survivors, and Disability Insurance Benefits programs under title II of the Social Security Act (42 U.S.C. 401 et seq.);

(B) the medicare program established under title XVIII of the Social Security Act, including benefits as a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p));

(C) the medicaid program established under title XIX of the Social Security Act;

(D) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(E) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

(F) the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); or

(G) a program determined to be appropriate by the Assistant Secretary.

(44) *REPRESENTATIVE PAYEE*.—The term “representative payee” means a person who is appointed by a governmental entity to receive, on behalf of an older individual who is unable to manage funds by reason of a physical or mental incapacity, any funds owed to such individual by such entity.

(45) *SECRETARY*.—The term “Secretary” means the Secretary of Health and Human Services.

(46) *SEVERE DISABILITY*.—The term “severe disability” means a severe, chronic disability attributable to a mental or physical impairment, or a combination of mental and physical impairments, that—

(A) is likely to continue indefinitely; and

(B) results in substantial functional limitation in 3 or more of the major life activities specified in subparagraphs (A) through (I) of paragraph (16).

(47) *STATE*.—The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

(48) *STATE AGENCY*.—The term “State agency” means the agency designated under section 201(a)(1).

(49) *SUPPORTIVE SERVICE*.—The term “supportive service” means a service described in section 311.

(50) *TRIBAL ORGANIZATION*.—

(A) *IN GENERAL*.—Except as used in title IV, the term “tribal organization” means—

(i) the recognized governing body of an Indian tribe;

(ii) the legally established organization of Indians that is controlled, sanctioned, or chartered by the recognized governing body of an Indian tribe;

(iii) a legally established organization of Indians that is democratically elected by the adult members of the Indian community to be served by such organization and that includes the maximum participation of Indians in all phases of the activities of the organization; and

(iv) a public or nonprofit private organization that is primarily controlled by and comprised of Indians or Indian tribes.

(B) *TITLE IV*.—

(i) *DEFINITION*.—As used in title IV, the term “tribal organization” means—

(I) the recognized governing body of an Indian tribe;

(II) the legally established organization of Indians that is controlled, sanctioned, or chartered by the recognized governing body of an Indian tribe; and

(III) a legally established organization of Indians that is democratically elected by the adult members of the Indian community to be served by such organization and that includes the maximum participation of Indians in all phases of the activities of the organization.

(ii) *CLARIFICATION*.—As used in this subparagraph, the terms “Indian” and “Indian tribe” have the meanings given the terms in paragraphs (24)(B) and (25)(B), respectively.

(51) *UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT*.—The term “unit of general purpose local government” means a political subdivision of a State, whose authority is general and not limited to only 1 function or combination of related functions.

## ***Subtitle B—Administration***

### **SEC. 111. ESTABLISHMENT OF ADMINISTRATION ON AGING.**

(a) *ESTABLISHMENT.*—There is established in the Office of the Secretary, an Administration on Aging, which shall be headed by an Assistant Secretary for Aging. This Act shall be administered through the Administration, acting under the supervision of the Secretary.

(b) *ASSISTANT SECRETARY.*—The Assistant Secretary shall be appointed by the President by and with the advice and consent of the Senate.

(c) *DESIGNATION RELATING TO THE ADMINISTRATION OF THE STATE LONG-TERM CARE OMBUDSMAN PROGRAM.*—The Assistant Secretary shall designate an employee of the Administration who shall be responsible, under the supervision of the Assistant Secretary, for the administration of the State long-term care ombudsman program carried out under this Act.

(d) *DESIGNATION RELATING TO THE ADMINISTRATION OF THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.*—The Assistant Secretary shall designate an employee of the Administration who shall be responsible, under the supervision of the Assistant Secretary, for the administration of subtitle C of title II.

(e) *DESIGNATION RELATING TO THE ADMINISTRATION OF NUTRITION SERVICES.*—

(1) *IN GENERAL.*—The Assistant Secretary shall designate an employee of the Administration who shall be responsible, under the supervision of the Assistant Secretary, for the administration of subtitle C of title III.

(2) *QUALIFICATIONS.*—The employee described in paragraph (1) shall—

(A) have expertise in nutrition and dietary services and planning; and

(B)(i) be a registered dietitian;

(ii) be a credentialed nutrition professional; or

(iii) have education and training that is substantially equivalent, as determined by the Assistant Secretary, to the education and training for a registered dietitian or a credentialed nutrition professional.

(f) *DESIGNATION RELATING TO THE ADMINISTRATION OF PROGRAMS AFFECTING NATIVE AMERICANS.*—The Assistant Secretary shall designate an employee of the Administration who has expertise with respect to programs and services affecting Native Americans, to be responsible, under the supervision of the Assistant Secretary, for the administration of title IV and for coordination of other programs, projects, and activities carried out under this Act that affect Native Americans.

### **SEC. 112. FUNCTIONS OF THE ASSISTANT SECRETARY.**

(a) *DUTIES.*—The duties of the Assistant Secretary are as follows:

(1) *ADMINISTRATION.*—The Assistant Secretary shall effectively carry out this Act by administering grants made and contracts entered into under this Act, and carrying out programs under this Act.

(2) *TECHNICAL ASSISTANCE AND CONSULTATION FOR POLITICAL SUBDIVISIONS, AND TRIBAL ORGANIZATIONS.*—The Assistant Secretary shall provide technical assistance to, and consult with, States, political subdivisions of States, and tribal organizations, with respect to programs for older individuals and aging.

(3) *ASSISTANCE TO SECRETARY.*—The Assistant Secretary shall directly assist the Secretary in all matters pertaining to problems of older individuals and aging.

(4) *COORDINATION OF AND ASSISTANCE IN PLANNING.*—The Assistant Secretary shall coordinate, and assist in, the planning and development by public agencies (including Federal, State, and local agencies and tribal organizations) and private agencies and organizations of programs for older individuals to facilitate the establishment of a nationwide network of comprehensive, coordinated services, and opportunities, for older individuals.

(5) *STATISTICAL DATA REGARDING ASSISTED ACTIVITIES.*—The Assistant Secretary shall collect, for each fiscal year beginning after September 30, 1996, directly or by contract, statistical data regarding services and activities provided with funds made available under this Act, including—

(A) with respect to each type of service or activity provided with such funds (except any service or activity relating to the State long-term care ombudsman program carried out under this Act—

(i) the aggregate amount of such funds expended to provide such service or activity;

(ii) the unduplicated number of individuals who received such service or participated in such activity;

(iii) the unduplicated number of low-income minority individuals who received such service or participated in such activity; and

(iv) the number of units of such service or activity provided;

(B)(i) State long-term care ombudsman program data, including numbers, types, and disposition of cases and complaints;

(ii) major institutional care issues identified and addressed by the State long-term care ombudsman program; and

(iii) data on the statewide program development, operations, and outreach of such program; and

(C) the number of multipurpose senior centers that received such funds.

(6) *UNIFORM DATA COLLECTION PROCEDURES.*—The Assistant Secretary, in order to facilitate the collection of data described in paragraph (5), shall, not later than 1 year after the date of enactment of the Older Americans Amendments of 1996—

(A) design and implement uniform data collection procedures for use by State agencies, including—

(i) standardized data collection procedures;

(ii) procedures for collecting information regarding gaps in services needed by older individuals, as identified by service providers who assist older individuals



by providing, collectively, supportive services and nutrition services; and

(iii) procedures for assessing the unmet need for services provided under this Act; and

(B) prescribe uniform definitions and nomenclature for the categories of data to be collected (including standard definitions of terms, such as the term “resolution of a complaint”, to be used under the State long-term care ombudsman program carried out under this Act).

(7) **ADVOCACY.**—The Assistant Secretary shall serve as the effective and visible advocate for older individuals, within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review of and commenting on all Federal policies affecting older individuals.

(8) **INFORMATION ON COMMUNITY RESOURCES.**—The Assistant Secretary shall establish and operate, directly or by grant or contract, a nationwide toll-free telephone line that provides information and assistance that—

(A) enable individuals to locate community resources that may be available to older individuals and their caregivers; and

(B) build on, support, and are fully coordinated with the activities of State agencies and area agencies on aging.

(b) **FEDERAL AGENCY CONSULTATION.**—The Assistant Secretary, in carrying out the purpose and provisions of this Act, shall coordinate activities with, advise, consult with, and cooperate with the head of each department, agency, or instrumentality of the Federal Government proposing or administering a program or service substantially related to the purpose of this Act, with respect to such program or service. The Assistant Secretary, in carrying out this Act, may request the technical assistance and cooperation of the heads of such departments, agencies, and instrumentalities of the Federal Government as the Assistant Secretary considers to be appropriate. The head of each department, agency, or instrumentality of the Federal Government proposing to establish or modify any program or service substantially related to the purpose of this Act shall coordinate activities, consult, and cooperate with the Assistant Secretary, with respect to such program or service.

(c) **POWERS.**—In carrying out this Act, the Assistant Secretary may exercise the following powers:

(1) **CONSULTATION; TECHNICAL ASSISTANCE.**—The Assistant Secretary may consult with and provide technical assistance to public or nonprofit private agencies, organizations, and institutions.

(2) **TRAINING; TECHNICAL INSTRUCTION.**—The Assistant Secretary may provide short-term training and technical instruction to public or non-profit private agencies, organizations, and institutions.

(3) **GRANTS AND CONTRACTS.**—

(A) **IN GENERAL.**—The Assistant Secretary, using funds appropriated under section 118(b), may make grants to States, public or nonprofit private agencies, organizations, and institutions, and tribal organizations, and may enter

*into contracts with such agencies, organizations, and institutions, and with individuals, for activities—*

*(i) to design, to test, and to promote utilization of innovative ideas and best practices in programs and services for older individuals;*

*(ii) to help meet the needs for trained personnel in fields related to aging; and*

*(iii) to increase the awareness of citizens of all ages of the need to assume personal responsibility for their aging through—*

*(I) education and training to develop an adequately trained workforce to work with and on behalf of older individuals;*

*(II) research and policy analysis to improve access to and delivery of services for older individuals;*

*(III) development of methods and practices to improve quality and effectiveness of such services;*

*(IV) demonstration of new approaches to design, delivery, and coordination of services and activities for older individuals;*

*(V) technical assistance in planning, development, implementation, evaluation, and improvement of programs, projects, and activities under this Act; and*

*(VI) dissemination of information on issues related to aging and their impact on individuals and society and information relating to services and activities benefiting older individuals.*

*(B) APPLICATION.—To be eligible to receive a grant or enter into a contract under this paragraph, an entity or individual shall submit an application to the Assistant Secretary at such time, in such form, and containing such information as the Secretary may by rule require.*

**(4) MEASUREMENT AND EVALUATION.—**

*(A) IN GENERAL.—The Assistant Secretary may provide for the measurement and evaluation of—*

*(i) the impact of all activities authorized under this Act;*

*(ii) the effectiveness of the activities in achieving the stated goals of the activities, in general and in relation to the cost of the activities;*

*(iii) the impact of the activities on related programs;*

*(iv) the effectiveness of the activities in targeting for services under this Act older individuals with the greatest economic need and older individuals with the greatest social need; and*

*(v) the structure and mechanisms of the activities for delivery of services, including, where appropriate, comparisons with delivery of services to appropriate control groups, composed of persons who have not participated in such activities.*

*(B) PERSONS CONDUCTING MEASUREMENT AND EVALUATION.—Measurement and evaluation of activities under*

subparagraph (A) shall be conducted by persons who are not immediately involved in the administration of the activities.

(5) **NATIONAL CENTER ON ELDER ABUSE.**—The Assistant Secretary may provide, through grants or contracts, for the operation of a National Center on Elder Abuse to—

(A) annually compile, publish, and disseminate a summary of recently conducted research on elder abuse, neglect, and exploitation;

(B) develop and maintain an information clearinghouse on all programs (including private programs) showing promise of success, for the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

(C) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

(D) provide technical assistance to State agencies and to other public and nonprofit private agencies and organizations to assist the agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the special problems of elder abuse, neglect, and exploitation; and

(E) conduct research and demonstration projects regarding the causes, prevention, identification, and treatment of elder abuse, neglect, and exploitation.

#### **SEC. 113. REPORTS.**

(a) **IN GENERAL.**—Not later than 120 days after the end of each fiscal year that begins after September 30, 1996, the Assistant Secretary shall prepare and submit to the President and to Congress a complete report on the programs, projects, and activities carried out under this Act in such fiscal year.

(b) **CONTENTS.**—Such report shall include—

(1) statistical data on services and activities provided under this Act for older individuals during the fiscal year for which such report is submitted;

(2) statistical data collected under section 112(a)(5); and

(3) statistical data, and an analysis of information, regarding the effectiveness of the State agencies and area agencies on aging in targeting services to older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals.

#### **SEC. 114. REDUCTION OF PAPERWORK.**

In order to reduce unnecessary, duplicative, or disruptive demands for information, the Assistant Secretary, in consultation with State agencies and other appropriate agencies and organizations, shall continually review and evaluate all requests by employees of the Administration for information made under this Act and shall take such action as may be necessary to reduce the paperwork required under this Act. The Assistant Secretary shall request only such information as the Assistant Secretary determines to be essential to carry out the purpose and provisions of this Act and, in gathering such information, shall make use of uniform definitions and

*nomenclature to the extent that such definitions and nomenclature are available.*

**SEC. 115. SURPLUS PROPERTY ELIGIBILITY.**

*Any State or local government agency, and any nonprofit private organization or institution, that receives funds appropriated for an activity for older individuals under this Act, under title IV or XX of the Social Security Act (42 U.S.C. 601 et seq. or 1397 et seq.), under title VIII or X of the Economic Opportunity Act of 1964 (42 U.S.C. 2991 et seq. or 2996 et seq.), or under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.), shall be deemed eligible to receive for such activity, property that is declared surplus to the needs of the Federal Government in accordance with laws applicable to surplus property.*

**SEC. 116. TREATMENT OF COSTS.**

*No part of the costs of any activity carried out under this Act (other than any wage or salary to any eligible individual) may be treated as income or benefits of any eligible individual for the purpose of any other activity or provision of Federal or State law.*

**SEC. 117. DISASTER RELIEF.**

*(a) RESERVATION OF AMOUNTS.—At the beginning of each fiscal year, the Assistant Secretary shall reserve a portion equal to .06 percent of the total amount appropriated under subsections (d) and (e) of section 122 for such fiscal year, to provide assistance to entities under this section.*

*(b) ASSISTANCE.—The Assistant Secretary may provide assistance to eligible entities for the delivery of supportive services, nutrition services, and related supplies during any major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).*

*(c) ELIGIBLE ENTITIES.—To be eligible to receive assistance under this section, an entity shall be a recipient of funding under this Act (other than this section).*

*(d) APPLICATIONS.—To be eligible to receive assistance under this section, an entity shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.*

*(e) UNUSED FUNDS.—Funds that are reserved under subsection (a) for a fiscal year and that are not distributed by the end of the fiscal year shall be allotted to States as provided in section 121(c), for use in the following fiscal year.*

*(f) CLARIFICATION.—Nothing in this section shall be construed to prohibit recipients of assistance under this section from making expenditures for disaster relief for older individuals, in excess of amounts provided under this section, by using funds made available to the recipients under another section of this Act, under another provision of Federal or State law, or from a private source.*

**SEC. 118. AUTHORIZATION OF APPROPRIATIONS.**

*(a) ADMINISTRATION.—There are authorized to be appropriated to the Administration to carry out this Act (except to make grants and enter into contracts under paragraph (3) or (5) of section 112(c) and to carry out section 112(a)(8)) such sums as may be necessary for fiscal years 1997 through 2001.*

(b) *INNOVATIVE APPROACHES AND BEST PRACTICES; INFORMATION ON COMMUNITY RESOURCES; NATIONAL CENTER ON ELDER ABUSE.*—There are authorized to be appropriated to the Administration to carry out paragraphs (3) and (5) of section 112(c) and section 112(a)(8) such sums as may be necessary for fiscal years 1997 through 2001.

### ***Subtitle C—Funding***

#### **SEC. 121. ALLOTMENTS; FEDERAL SHARE.**

##### **(a) ALLOTMENT OF FUNDS FOR OMBUDSMAN PROGRAM.—**

(1) *POPULATION.*—Subject to paragraph (2), in carrying out the program described in subtitle B of title II, the Assistant Secretary shall allot to each State, from the funds appropriated under section 122(a) for each fiscal year, an amount that bears the same ratio to the funds as the population of older individuals in the State bears to the population of older individuals in all States.

(2) *MINIMUM ALLOTMENTS.*—The amounts allotted under paragraph (1) shall be reduced proportionately to the extent necessary to increase other allotments made under such paragraph to achieve the following:

(A) *STATES.*—Each State shall be allotted not less than  $\frac{1}{2}$  of 1 percent of the funds appropriated under section 122(a) for the fiscal year for which the determination is made.

(B) *GUAM; VIRGIN ISLANDS.*—Guam and the Virgin Islands of the United States shall each be allotted not less than  $\frac{1}{4}$  of 1 percent of the funds appropriated under section 122(a) for the fiscal year for which the determination is made.

(C) *AMERICAN SAMOA; NORTHERN MARIANA ISLANDS.*—American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than  $\frac{1}{16}$  of 1 percent of the funds appropriated under section 122(a) for the fiscal year for which the determination is made.

(3) *LIMITATION.*—For the purposes of paragraph (2), the term ‘State’ does not include Guam, American Samoa, the Virgin Islands of the United States, or the Commonwealth of the Northern Mariana Islands.

(4) *POPULATION DETERMINATIONS.*—For purposes of this subsection, the number of older individuals in each State shall be determined by the Assistant Secretary on the basis of the most recent data available from the Bureau of the Census and other reliable demographic data satisfactory to the Assistant Secretary.

##### **(b) ALLOTMENT OF FUNDS FOR SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.—**

(1) *RESERVATION OF FUNDS FOR TRIBAL ORGANIZATIONS.*—Of the amount appropriated under section 122(b) for each of fiscal years 1997 through 2001, the Assistant Secretary shall reserve not more than 1.3 percent for making grants under subtitle C of title II to tribal organizations.

(2) *ALLOTMENT OF FUNDS FOR FISCAL YEARS 1997 THROUGH 2001.*—

(A) *ALLOTMENT.*—After reserving funds under paragraph (1), the Assistant Secretary shall allot the remainder of the amount appropriated under section 122(b) for each of fiscal years 1997 through 2001 among the States as follows:

(i) *FISCAL YEARS 1997 THROUGH 1999.*—For each of fiscal years 1997, 1998, and 1999—

(I) each State shall be allotted an amount equal to the product of—

(aa) the base percentage rate for such fiscal year; and

(bb) a sum that bears the same ratio to such remainder for such fiscal year as the amount of funds allotted to such State for fiscal year 1995 to carry out title V (as in effect on the day before the date of enactment of the Older Americans Amendments of 1996) bears to the total amount allotted to all States for fiscal year 1995 to carry out such title; and

(II) the balance of the remainder for such fiscal year shall be allotted in accordance with subparagraph (C).

(ii) *FISCAL YEARS 2000 AND 2001.*—After reserving funds under paragraph (1), the Assistant Secretary shall allot the balance of the amount appropriated under section 122(b) for each of fiscal years 2000 and 2001 in accordance with subparagraph (C).

(B) *BASE PERCENTAGE RATES.*—For purposes of subparagraph (A)(i)(I), the base percentage rates shall be the following:

<i>Fiscal year:</i>	<i>Base percentage rate:</i>
1997 .....	60 percent
1998 .....	40 percent
1999 .....	20 percent.

(C) *ALLOTMENTS BASED ON AGE AND PER CAPITA INCOME.*—Each balance referred to in clauses (i)(II) and (ii) of subparagraph (A) for a fiscal year shall be allotted as follows:

(i) *ALLOTMENT.*—Subject to clause (ii), each State shall be allotted an amount equal to the product of—

(I) the allotment percentage of the State; and

(II) a sum that bears the same ratio to such balance for such fiscal year as the number of individuals 55 years of age or older in the State bears to the population of such individuals in all States.

(ii) *REDUCTION.*—The amounts allotted under clause (i) shall be reduced proportionately to the extent necessary to increase other allotments made under such clause to achieve the following:

(I) *STATES.*—Each State shall be allotted not less than  $\frac{1}{2}$  of 1 percent of the balance for the fiscal year for which the determination is made.

(II) *OTHER JURISDICTIONS.*—Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than  $\frac{1}{4}$  of 1 percent of the balance for the fiscal year for which the determination is made or \$50,000, whichever is greater.

(D) *ALLOTMENT PERCENTAGE.*—For purposes of subparagraph (C)(i)—

(i) except as provided in clauses (ii) through (iv), the allotment percentage of each State shall be 100 percent less the percentage that bears the same ratio to 50 percent as the per capita income of the State bears to the per capita income of all the States;

(ii) the allotment percentage for each State shall be not more than 75 percent and not less than  $33\frac{1}{3}$  percent;

(iii) the allotment percentage for Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall be 75 percent; and

(iv) subject to clause (ii), the allotment percentage for a State whose allotment percentage is not adjusted under clause (ii) or (iii) shall be adjusted proportionately to the extent necessary to achieve the percentages required under such clauses.

(E) *LIMITATION.*—For purposes of subparagraphs (C)(ii)(I) and (D)(i), the term “State” does not include Guam, American Samoa, the Virgin Islands of the United States, or the Commonwealth of the Northern Mariana Islands.

(F) *POPULATION AND PER CAPITA INCOME DETERMINATIONS.*—For purposes of this paragraph, the number of individuals 55 years of age or older in each State, and the per capita income of each State, shall be determined by the Assistant Secretary on the basis of the most recent data available from the Bureau of the Census and other reliable demographic data satisfactory to the Assistant Secretary.

(c) *ALLOTMENT OF FUNDS FOR SUPPORTIVE SERVICES AND MULTIPURPOSE SENIOR CENTERS, AND NUTRITION SERVICES.*—

(1) *RESERVATION AND ALLOTMENT OF FUNDS FOR TERRITORIES.*—

(A) *IN GENERAL.*—After reserving funds under section 117(a) for each of fiscal years 1997 through 2001, the Assistant Secretary shall reserve not less than 0.625 percent of the remainder of the sum of the amounts appropriated under subsections (d) and (e) of section 122 for each of such fiscal years for making allotments to Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

(B) *ALLOTMENTS.*—

(i) *GUAM; VIRGIN ISLANDS.*—Guam and the Virgin Islands of the United States shall each be allotted not less than  $\frac{1}{4}$  of 1 percent of the remainder described in

subparagraph (A) for each of fiscal years 1997 through 2001.

(ii) *AMERICAN SAMOA; NORTHERN MARIANA ISLANDS.*—American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than  $\frac{1}{16}$  of 1 percent of the remainder described in subparagraph (A) for each of fiscal years 1997 through 2001.

(2) *ALLOTMENT OF FUNDS TO STATES.*—

(A) *ALLOTMENT.*—Except as provided in subparagraph (B), from the balance of the sum of the amounts appropriated under subsections (d) and (e) of section 122 for each of fiscal years 1997 through 2001 that remains after the reservations made under section 117(a) and paragraph (1), the Assistant Secretary shall allot to each State the product of—

- (i) the balance;
- (ii) the elderly in-need percentage for the State; and
- (iii) the older Americans Federal percentage for the State.

(B) *ADJUSTMENTS.*—

(i) *OLDER AMERICANS FEDERAL PERCENTAGE.*—For purposes of this paragraph, the older Americans Federal percentage for a State shall be not less than .32 and not more than .36.

(ii) *STATE MINIMUM.*—Each State shall be allotted, under this paragraph, not less than  $\frac{1}{2}$  of 1 percent of the remainder described in paragraph (1)(A) for each fiscal year.

(iii) *MAINTENANCE OF FISCAL YEAR 1995 ASSISTANCE.*—

(I) *HIGHER APPROPRIATION YEAR.*—As used in subclause (II), the term “higher appropriation year” means a fiscal year for which the sum of the amounts appropriated under subsections (d) and (e) of section 122 equals or is greater than the total amount appropriated for fiscal year 1995 to carry out activities under titles III and VII, other than under section 311 or chapter 2 of subtitle A of title VII (as such titles, section, and chapter were in effect on September 30, 1994).

(II) *ALLOTMENT FOR HIGHER APPROPRIATION YEAR.*—For any higher appropriation year, each State that received funds in an amount of less than \$4,310,000 for fiscal year 1995 to carry out activities described in subclause (I), shall be allotted, under this paragraph, not less than such amount.

(III) *LOWER APPROPRIATION YEAR.*—As used in subclause (IV), the term “lower appropriation year” means a fiscal year that is not a higher appropriation year.

(IV) *ALLOTMENT FOR LOWER APPROPRIATION YEAR.*—For any lower appropriation year, each



*State referred to in subclause (II) shall be allotted, under this paragraph, not less than an amount that bears the same ratio to the sum of the amounts appropriated under subsections (d) and (e) of section 122 for the fiscal year as the amount received by the State to carry out activities described in subclause (I) for fiscal year 1995 bears to the total amount received by all States to carry out such activities for fiscal year 1995.*

(iv) *MAINTENANCE OF FISCAL YEAR 1997 INCREASE.—*

*(I) HIGHER APPROPRIATION YEAR.—As used in subclause (II), the term “higher appropriation year” means a fiscal year for which the sum of the amounts appropriated under subsections (d) and (e) of section 122 equals or is greater than the sum of the amounts so appropriated for fiscal year 1997.*

*(II) ALLOTMENT OF HIGHER APPROPRIATION YEAR.—Each State that received a percentage increase in an allotment for fiscal year 1997 that is greater than the percentage increase in the total of the allotments made to States for fiscal year 1997 shall be allotted, under this paragraph, for each subsequent higher appropriation year, not less than the amount of the allotment received by the State under this paragraph for fiscal year 1997.*

*(III) LOWER APPROPRIATION YEAR.—As used in subclause (IV), the term “lower appropriation year” means a fiscal year subsequent to fiscal year 1997 that is not a higher appropriation year.*

*(IV) ALLOTMENT FOR LOWER APPROPRIATION YEAR.—For any lower appropriation year, each State referred to in subclause (II) shall be allotted, under this paragraph, not less than an amount that bears the same ratio to the sum of the amounts appropriated under subsections (d) and (e) of section 122 for the fiscal year as the allotment received by the State under this paragraph for fiscal year 1997 bears to the total of the allotments received by all States under this paragraph for fiscal year 1997.*

(v) *CEILING.—No State may receive a larger percentage increase in an allotment for a fiscal year than the sum of—*

*(I) the percentage increase in the total of the allotments made to States for the fiscal year; and*

*(II) 3.75 percent.*

(vi) *FLOOR.—No State may receive a smaller percentage increase in an allotment for a fiscal year than—*

*(I) the percentage increase in the total of the allotments made to States for the fiscal year; minus*

*(II) 4.00 percent.*

(vii) *PRO RATA ADJUSTMENT.—After making the allotments described in subparagraph (A), the Assistant*

Secretary shall adjust the allotments on a pro rata basis in accordance with clauses (i) through (vi).

(viii) *PERCENTAGE INCREASE*.—As used in this subparagraph, the term “percentage increase”, used with respect to the allotment of a State for a fiscal year, means the percentage by which the allotment of the State under this paragraph for the fiscal year is greater than the allotment of the State under this paragraph for the previous fiscal year.

(3) *FEDERAL SHARE REQUIREMENT*.—

(A) *IN GENERAL*.—A State that receives an allotment under this subsection for a fiscal year shall use funds made available through the allotment to pay for the Federal share of the cost of carrying out subtitles B and C of title III for such fiscal year.

(B) *FEDERAL SHARE*.—The Federal share of the cost of carrying out such subtitles shall be not more than 85 percent.

(C) *NON-FEDERAL SHARE*.—The non-Federal share of such cost shall be contributed in cash or in kind. In determining the amount of the non-Federal share, the Assistant Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

(d) *PERMITTED USE OF ALLOTMENTS*.—

(1) *ADMINISTRATION OF STATE PLANS*.—

(A) *STATES*.—Except as provided in subparagraph (B), an amount equal to the greater of 5 percent, or \$500,000, of the aggregate of the allotments made under subsections (a) and (c) and the assistance made available under section 231 to a State for a fiscal year shall be available to the State to use for such fiscal year in accordance with section 203(a).

(B) *OTHER JURISDICTIONS*.—In the case of allotments made under subsections (a) and (c) and assistance made available under section 231 to Guam, American Samoa, the Virgin Islands of the United States, or the Commonwealth of the Northern Mariana Islands, an amount equal to the greater of 5 percent, or \$100,000, of the aggregate of such allotments and assistance for a fiscal year shall be available to the State to use for such fiscal year in accordance with section 203(a).

(2) *APPLICATION TO USE ADDITIONAL FUNDS*.—

(A) *DETERMINATION*.—If a State submits an application in which the State requests permission to use additional funds, above the amount that would otherwise be permitted under paragraph (1), from the aggregate of the allotments and assistance described in subparagraph (A) or (B), as appropriate, of paragraph (1) in accordance with section 203(a), the Assistant Secretary may approve the application if the Assistant Secretary determines, based on a particularized showing of need, that—

(i) the State will be unable to fully and effectively administer the State plan of the State submitted under section 202 and to carry out programs, projects, and activities authorized under subtitles B and D of title II,

and subtitles B and C of title III, unless the additional funds are made available by the Assistant Secretary;

(ii) the State is making full and effective use of the allotments and assistance described in subparagraph (A) or (B), as appropriate, of paragraph (1) and of the personnel of the State agency and area agencies on aging in the administration of the State plan in accordance with section 203(a); and

(iii) the State agency and area agencies on aging are carrying out, on a full-time basis, programs, projects, and activities that are in furtherance of the objectives of subtitles B and D of title II and subtitles B and C of title III.

(B) *PART OF ADDITIONAL FUNDS.*—Subject to subparagraph (C), the Assistant Secretary may approve such use of any part of the additional funds requested in such application that the Assistant Secretary determines is justified in such application.

(C) *LIMIT ON AMOUNT.*—The additional funds available under this paragraph to a particular State for such use for any fiscal year may not exceed  $\frac{3}{4}$  of 1 percent of the aggregate of the allotments and assistance described in subparagraph (A) or (B), as appropriate, of paragraph (1) that are provided to the State for such fiscal year.

(D) *ASSURANCES.*—

(i) *IN GENERAL.*—The Assistant Secretary may not approve an application submitted under subparagraph (A) by a State unless the application contains the assurance described in clause (ii).

(ii) *PROHIBITION ON REPLACEMENT OF EMPLOYEES WITH PARTICIPANTS SUPPORTED UNDER THIS ACT.*—The application shall contain an assurance that the State will not use any funds made available under this paragraph for the use described in subparagraph (A) to hire any individual to fill a job opening created by an action of the State that consists of laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the job opening so created by hiring a participant to be supported through use of such funds.

(3) *ADDITIONAL USE.*—Of the amount that is made available to a State through allotments made under subsections (a) and (c) and assistance made available under section 231 for a fiscal year and that remains after the application of paragraphs (1) and (2), such part as the State agency determines to be appropriate, but not more than 10 percent of such remaining amount, may be used to pay such percentage as the State agency determines to be appropriate, but not more than 85 percent, of the administrative costs incurred to carry out area plans submitted in accordance with section 302.

(4) *OMBUDSMAN PROGRAM.*—Of the amount that is made available to a State for supportive services (including services to support multipurpose senior centers) through an allotment made under subsection (c) for a fiscal year and that remains

after the application of paragraphs (1), (2), and (3), such amount as the State agency determines to be adequate for conducting an effective ombudsman program in accordance with subtitle B of title II shall be available for conducting such program.

(e) *REALLOTMENT.*—If any part of the amount allotted under a subsection of this section to a State for a fiscal year is not distributed to the State for such fiscal year, such part shall be reallocated under such subsection for such fiscal year to the remaining eligible States.

(f) *DEFINITIONS.*—For purposes of subsection (c):

(1) *ELDERLY IN-NEED PERCENTAGE.*—

(A) *PERCENTAGE.*—The term “elderly in-need percentage”, used with respect to a State, means the sum of—

(i) the product of—

(I) 0.65; and

(II) the number of individuals who are age 60 or older in the State divided by the number of such individuals in all States;

(ii) the product of—

(I) 0.03; and

(II) the number of individuals who are ages 70 through 74 in the State divided by the number of such individuals in all States;

(iii) the product of—

(I) 0.08; and

(II) the number of individuals who are ages 75 through 79 in the State divided by the number of such individuals in all States;

(iv) the product of—

(I) 0.09; and

(II) the number of individuals who are ages 80 through 84 in the State divided by the number of such individuals in all States; and

(v) the product of—

(I) 0.15; and

(II) the number of individuals who are age 85 or older in the State divided by the number of such individuals in all States.

(B) *RULE.*—For purposes of this paragraph, the Assistant Secretary shall determine the number of individuals in a State on the basis of the most recent data available from the Bureau of the Census.

(2) *OLDER AMERICANS FEDERAL PERCENTAGE.*—The term “older Americans Federal percentage”, used with respect to a State, means the result obtained by subtracting from 1 the product of—

(A) 0.65; and

(B) the result obtained by dividing the total taxable resources percentage for the State by the elderly in-need percentage for the State.

(3) *STATE.*—The term “State” means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(4) *TOTAL TAXABLE RESOURCES PERCENTAGE.*—(A) *PERCENTAGE.*—The term “total taxable resources percentage”—(i) *used with respect to a State other than the District of Columbia, means the total taxable resources of the State divided by the total taxable resources of all States; and*(ii) *used with respect to the District of Columbia, means the total personal income of the District divided by the total personal income of all States.*(B) *DEFINITIONS.*—As used in this paragraph:(i) *TOTAL PERSONAL INCOME.*—The term “total personal income”, used with respect to a State, means the most recent 3-year arithmetic mean of the total personal income of the State, as determined by the Director of the Bureau of Economic Analysis of the Department of Commerce.(ii) *TOTAL TAXABLE RESOURCES.*—The term “total taxable resources”, used with respect to a State, means the most recent 3-year arithmetic mean of the total taxable resources of the State, as determined by the Secretary of the Treasury.**SEC. 122. AUTHORIZATION OF APPROPRIATIONS.**(a) *STATE LONG-TERM CARE OMBUDSMAN PROGRAM.*—There are authorized to be appropriated to carry out subtitle B of title II, such sums as may be necessary for fiscal years 1997 through 2001.(b) *SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.*—There are authorized to be appropriated to carry out subtitle C of title II, such sums as may be necessary for fiscal years 1997 through 2001.(c) *DISEASE PREVENTION AND HEALTH PROMOTION.*—There are authorized to be appropriated to carry out subtitle D of title II, such sums as may be necessary for fiscal years 1997 through 2001.(d) *SUPPORTIVE SERVICES AND SENIOR CENTERS.*—There are authorized to be appropriated to carry out subtitle B of title III, such sums as may be necessary for fiscal years 1997 through 2001.(e) *NUTRITION SERVICES.*—There are authorized to be appropriated to carry out subtitle C of title III, such sums as may be necessary for fiscal years 1997 through 2001.(f) *PROGRAM YEAR AND EXTENSIONS.*—(1) *PROGRAM YEAR.*—Amounts appropriated under subsection

(b) for any fiscal year shall be used during the annual period that—

(A) begins on July 1 of the calendar year immediately following the beginning of such fiscal year; and

(B) ends on June 30 of the following calendar year.

(2) *EXTENSIONS.*—If, in accordance with section 121(e), any part of an allotment is reallocated to a State for a fiscal year, such part shall be considered to be a portion of the appropriate allotment of the State for the fiscal year, but shall remain available for obligation for the State until the end of the succeeding fiscal year.

**SEC. 123. ADDITIONAL FUNDS AVAILABLE FOR NUTRITION SERVICES.**

(a) *FUNDS AVAILABLE.*—There are authorized to be appropriated to the Secretary of Agriculture (in addition to the amount appropriated to the Secretary of Health and Human Services under section 122(e)) to provide nutrition services under subtitle C of title III \$156,625,000 for fiscal year 1997 and such sums as may be necessary for fiscal years 1998 through 2001.

(b) *DIVISION OF FUNDS.*—The Secretary of Agriculture shall divide the funds that are made available under subsection (a) so that—

(1) 98.9 percent of such funds is allotted to States in accordance with subsection (c) to provide nutrition services under subtitle C of title III; and

(2) the balance is available to make grants under title IV to provide nutrition services.

(c) *ALLOTMENT.*—In providing funds for nutrition services under subsection (b)(1) for a fiscal year, the Secretary of Agriculture shall determine a per meal rate equal to the amount appropriated under subsection (a) for the fiscal year, divided by the number of meals served in the preceding fiscal year. The Secretary of Agriculture shall allot to each State, for the fiscal year for which the determination is made, the product of the per meal rate and the number of meals served in the State in the preceding fiscal year.

(d) *RECEIPT OF COMMODITIES IN LIEU OF CASH.*—A State or area agency on aging that receives funds allotted under subsection (b)(1), or a recipient of a grant referred to in subsection (b)(2), may elect to enter into an agreement with the Secretary of Agriculture to purchase commodities with all or part of such funds or of the funds made available through such grant, through authorities including section 32 of the Act entitled “An Act to amend the Agricultural Adjustment Act, and for other purposes”, approved August 24, 1935 (7 U.S.C. 612c), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1).

**TITLE II—STATE PROGRAMS ON AGING****Subtitle A—General Provisions****SEC. 201. ELIGIBILITY OF STATES.**

(a) *ELIGIBILITY OF STATES.*—For a State to be eligible for grants from the allotment made for the State under subsection (a) or (c) of section 121, or assistance available under section 123 or 231—

(1) the State shall, in accordance with rules issued by the Secretary, designate a State agency as the sole State agency to—

(A) develop a State plan to be submitted to the Assistant Secretary for approval under section 202;

(B) administer the State plan within the State;

(C) be responsible for the planning, policy development, administration, coordination, priority setting, and evaluation of all activities specified in the State plan and related

to carrying out subtitles B, C, and D, and subtitles B and C of title III;

(D) serve as an effective and visible advocate for older individuals by reviewing and commenting on all State plans, budgets, and policies that affect older individuals, and provide technical assistance to any agency, organization, or association representing the needs of older individuals; and

(E) except as provided in subsection (c)—

(i) divide the State into distinct planning and service areas, after considering—

(I) the geographical distribution of older individuals in the State;

(II) the incidence of the need for supportive services (including services to support multipurpose senior centers) and nutrition services;

(III) the distribution of older individuals who have the greatest economic need or the greatest social need, with attention to the distribution of older individuals who are low-income minority individuals;

(IV) the distribution of resources available to provide the services and centers described in subclause (II);

(V) the boundaries of existing (as of the date of the division) planning and service areas within the State;

(VI) the characteristics of the local government within the State; and

(VII) other relevant factors; or

(ii) designate the entire State as a single planning and service area; and

(2) the State agency shall—

(A) designate an area agency on aging for each planning and service area;

(B) take into account in the development and administration of the State plan for any fiscal year, the views of—

(i) recipients of services through the State long-term care ombudsman program, community service employment, supportive services, nutrition services, or disease prevention and health promotion services and information, as the case may be, provided under such plan; and

(ii) individuals using multipurpose senior centers provided under such plan;

(C) after consultation with area agencies on aging and using the best available data, develop and publish for review and comment a formula for distribution within the State of funds received to carry out subtitles B and C of title III that takes into account—

(i) the geographical distribution of older individuals in the State; and

(ii) the distribution among planning and service areas of older individuals with greatest economic need and older individuals with greatest social need; and

(D) provide an assurance that the State will give preference, in providing services under subtitles B and C, and subtitles B and C of title III, to older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals, and include in the State plan proposed methods of carrying out the preference.

(b) DUE PROCESS.—

(1) IN GENERAL.—A State agency shall establish and publish, after consultation with area agencies on aging, procedures that the State agency shall follow to provide due process to affected parties if the State agency initiates an action or proceeding to change the designation of any designated planning and service area or of any designated area agency on aging.

(2) PROCEDURES.—At a minimum, such procedures shall include procedures for—

(A) providing notice of an action to change the designation of a designated planning and service area or of a designated area agency on aging;

(B) providing documentation of the need for such action; and

(C) at the request of the area agency on aging involved, conducting a public hearing concerning such action.

(c) GRANDFATHER PROVISION.—

(1) ADDITIONAL DESIGNATIONS.—A State that on or before October 1, 1980, had designated, with the approval of the Commissioner on Aging, a single planning and service area covering all of the older individuals in the State, in which the State agency was administering the area plan, may after such date designate in accordance with subsection (a)(1)(E) 1 or more additional planning and service areas within the State to be administered by an area agency on aging.

(2) STATE FUNCTIONS.—The State agency shall continue to perform the functions of an area agency on aging for any remaining area of the State not included in a planning and service area for which an area agency on aging has been designated.

(d) INTERSTATE PLANNING AND SERVICE AREAS.—The chief executive officer of each State that contains a region of an interstate geographic area or of an interstate Indian reservation, may apply to the Assistant Secretary to request redesignation of the geographic area or reservation as an interstate planning and service area. If the Assistant Secretary approves the application, the Assistant Secretary shall adjust the allotment of each State containing a region of the interstate planning and service area, to reflect the number of older individuals within the region.

(e) NONDESIGNATION OF INDIAN RESERVATIONS.—If a State declines to designate an Indian reservation as a planning and service area, the Indian tribe residing on the reservation may appeal the decision of the State to the Assistant Secretary. The Assistant Secretary may order the State to designate the Indian reservation as a planning and service area as a condition of receiving funding under this Act.



**SEC. 202. STATE PLANS.**

(a) *PLAN.*—For a State to be eligible for grants from the allotment made for the State under subsection (a), (b), or (c) of section 121, or assistance available under section 123 or 231, for any fiscal year, the State shall prepare and submit to the Assistant Secretary a State plan, which incorporates input from area agencies on aging in the State, for a 2-, 3-, or 4-year period determined by the State agency, with such annual revisions as are necessary. Each such plan shall comply with all of the following requirements:

(1) *UNIFORM AREA PLAN FORMAT.*—The plan shall contain assurances that the State plan is based on area plans developed by area agencies on aging within the State and that the State has prepared and distributed a uniform format for use by area agencies on aging in developing area plans under section 302.

(2) *APPROVAL OF AREA PLAN.*—The plan shall provide that each such area agency on aging has prepared, developed, and submitted to the State agency for approval an area plan that complies with section 302.

(3) *HEARINGS.*—The plan shall provide that the State agency will establish a grievance procedure that will afford an opportunity for a hearing on request to any area agency on aging submitting a plan under section 302, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan. The State agency shall establish and publish the procedures for requesting and conducting such hearing.

(4) *FISCAL CONTROL AND FUND ACCOUNTING; CONFLICTS OF INTEREST.*—

(A) *FISCAL CONTROL AND FUND ACCOUNTING PROCEDURES.*—The plan shall provide an assurance that the State will adopt such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, funds made available through allotments made under subsections (a), (b), and (c) of section 121, and assistance made available under sections 123 and 231, to the State, including any such funds or assistance paid to the recipients of a grant or contract with the State.

(B) *CONFLICTS OF INTEREST.*—The plan shall provide assurances that—

(i) no individual (appointed or otherwise) involved in the designation of the State agency or an area agency on aging in the State, or in the designation of the head of the State agency, the head of such an area agency on aging, or the head of any subdivision of the State agency or of such an area agency on aging, is subject to a conflict of interest prohibited under this Act;

(ii) no officer, employee, or other representative of the State agency or an area agency on aging in the State is subject to a conflict of interest prohibited under this Act; and

(iii) mechanisms are in place in the State to identify and remove conflicts of interest prohibited under this Act.

(C) *INTEGRITY; PUBLIC PURPOSE; ENHANCEMENT.*—The plan shall provide assurances that the State agency and each area agency on aging in the State will—

(i) maintain the integrity and public purpose of service providers utilized, and services provided, under the State plan in all contractual and commercial relationships; and

(ii) demonstrate that the quantity or quality of the services to be provided under the State plan will be enhanced as a result of such contract or such relationship.

(5) *INFORMATION AND ASSISTANCE SERVICES.*—

(A) *IN GENERAL.*—It shall be a primary responsibility of the State agency to ensure that the plan provides for establishing and maintaining information and assistance services in sufficient numbers to ensure, to the maximum extent practicable, that all older individuals in the State who are not furnished adequate information and assistance services under section 302(a)(3) will have reasonably convenient access to such services.

(B) *INSURANCE BENEFITS AND PUBLIC BENEFITS.*—The plan shall contain an assurance that each area agency on aging in the State, in providing information and assistance services—

(i) will carry out a program for provision of outreach, counseling, and assistance to aid older individuals in obtaining insurance benefits and public benefits; and

(ii) will expend, to carry out the program, a specific percentage, stated in the State plan, of the agency's share of funds made available under section 122(d) and allotted to the State under section 121(c).

(6) *LIMITATIONS.*—

(A) *PROHIBITION ON DIRECT PROVISION OF SERVICES.*—Except as provided in subparagraphs (B) and (C) and section 302(c)(3), the plan shall provide that no supportive services or nutrition services, including home-delivered services, will be directly provided by the State agency or an area agency on aging.

(B) *ADMINISTRATIVE EXCEPTIONS.*—Subparagraph (A) shall not apply when, in the judgment of the State agency—

(i) the provision of services described in subparagraph (A) by the State agency or an area agency on aging is necessary to ensure an adequate supply of such services;

(ii) such services are directly related to the administrative functions of the State agency or area agency on aging; or

(iii) such services of comparable quality can be provided more economically by the State agency or area agency on aging.

(C) *EXCEPTION FOR CERTAIN SERVICES.*—Subparagraph (A) shall not apply with respect to information and assistance services, case management services, and outreach.

(7) *STATE LONG-TERM CARE OMBUDSMAN PROGRAM.*—*The plan shall provide assurances that the State agency will carry out a State long-term care ombudsman program that complies with all the requirements specified in subtitle B.*

(8) *LEGAL ASSISTANCE.*—*The plan shall contain assurances, with respect to legal assistance, that each area agency on aging in the State will—*

*(A) expend, for the delivery of legal assistance, a specific percentage, stated in the State plan, of the agency's share of funds made available under section 122(d) and allotted to the State under section 121(c); and*

*(B)(i) enter into contracts with providers of legal assistance that can demonstrate the experience or capacity to deliver legal assistance; and*

*(ii) attempt to involve private attorneys in legal assistance activities authorized under subtitle B of title III, including groups of private attorneys who are furnishing services to older individuals on a pro bono basis or on a reduced fee basis.*

(9) *PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.*—*Whenever the State desires to provide for programs for the prevention of elder abuse, neglect, and exploitation for a fiscal year, the plan shall—*

*(A) contain an assurance that each area agency on aging in the State will expend, to carry out a program for the prevention of elder abuse, neglect, and exploitation, a specific percentage, stated in the State plan, of the agency's share of funds made available under section 122(d) and allotted to the State under section 121(c);*

*(B) contain an assurance that the State has in effect laws relating to elder abuse, neglect, and exploitation that include provisions for immunity for persons who report instances of elder abuse, neglect, and exploitation, from prosecution under any State or local law arising out of such reporting;*

*(C) contain an assurance that individuals who provide services to prevent elder abuse, neglect, and exploitation are trained to effectively deal with such reported instances;*

*(D) contain an assurance that involuntary or coerced participation in such programs by alleged victims, alleged abusers, or members of the households of alleged victims or alleged abusers will not be permitted;*

*(E) contain an assurance that the State requires that all information gathered in the course of receiving reports on instances of, and of making referrals relating to, elder abuse, neglect, and exploitation remain confidential except—*

*(i) if all parties to the complaint that is the subject of the report or referral consent in writing to the release of such information;*

*(ii) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or*

(iii) upon court order;

(F) contain an assurance that the State agency will make all reasonable efforts to resolve any conflicts with other public agencies with respect to the confidentiality of the information described in subparagraph (E);

(G) contain an assurance that the State agency will coordinate the State programs for the prevention of elder abuse, neglect, and exploitation with—

(i) law enforcement officials;

(ii) courts of competent jurisdiction; and

(iii) entities carrying out other relevant State and local programs, including—

(I) area agencies on aging; and

(II) agencies that, collectively, administer adult protective services, medicaid fraud and abuse services (including services provided by a State medicaid fraud control unit, as defined in section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q)), and victim assistance programs, and State agencies responsible for surveys and certification under section 1919(g) of the Social Security Act (42 U.S.C. 1396r(g));

(H) contain an assurance that older individuals participate in decisions regarding their welfare under the programs for the prevention of elder abuse, neglect, and exploitation; and

(I) specify other activities that the State agency determines to be beneficial in the prevention of elder abuse, neglect, and exploitation, and intends to carry out under such programs.

(10) **OUTREACH.**—The plan shall contain assurances that the State agency will require outreach efforts that will—

(A) identify individuals eligible for assistance under subtitle B or C, or under subtitle B or C of title III, with special emphasis on—

(i) older individuals residing in rural areas;

(ii) older individuals with greatest economic need;

(iii) older individuals with greatest social need, with particular attention to low-income minority individuals;

(iv) older individuals with severe disabilities;

(v) older individuals with limited English-speaking ability;

(vi) older individuals with Alzheimer's disease or related disorders and with neurological or organic brain dysfunction (and the caretakers of such individuals); and

(vii) low-income minority older individuals; and

(B) inform the older individuals referred to in clauses (i) through (vii) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance.

(11) **INDIVIDUALS WITH DISABILITIES.**—The plan shall provide, with respect to the needs of individuals with disabilities, assurances that the State agency will coordinate planning, identifica-

*tion, assessment of needs, and services for individuals with disabilities (with particular attention to individuals with severe disabilities) with the State agencies with primary responsibility for individuals with disabilities (including severe disabilities).*

(12) *COORDINATION OF COMMUNITY-BASED LONG-TERM CARE SERVICES.—The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based long-term care services, pursuant to section 302(a)(5)(E), for older individuals who—*

*(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;*

*(B) are patients in hospitals and are at risk of prolonged institutionalization; or*

*(C) are patients in long-term care facilities, but who are able to return to their homes if community-based services are provided to the individuals.*

(13) *PROHIBITION ON MISUSE OF FUNDS.—The plan shall provide assurances that funds received from allotments made under subsections (a), (b), and (c) of section 121, and assistance made available under sections 123 and 231, will not be used to pay any part of a cost (including an administrative cost) incurred by the State or an area agency on aging to carry out a contract or commercial arrangement that is not carried out to implement subtitle B, C, or D, or subtitle B or C of title III.*

(14) *COORDINATION OF SERVICES; PROVISION OF MULTIGENERATIONAL SERVICES.—The plan shall provide assurances that the State will make demonstrable efforts—*

*(A) to coordinate services provided under subtitles B, C, and D, and subtitles B and C of title III, with other State services that benefit older individuals; and*

*(B) to provide multigenerational activities, such as opportunities for older individuals to serve as mentors or advisers in programs that, collectively, provide child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support.*

(15) *QUALITY ASSURANCE.—The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of services under subtitles B, C, and D, and subtitles B and C of title III.*

(16) *COST SHARING.—If the State, after consultation with area agencies on aging and service providers, elects to require cost sharing by recipients of services under the State plan (or to require or permit area agencies on aging to require cost sharing by recipients of services under area plans), the plan shall—*

*(A) provide that no cost sharing shall be required for information and assistance services, outreach, benefits counseling, case management services, or ombudsman or other protective services;*

*(B) exempt from cost-sharing requirements low-income individuals, or individuals with incomes that are less than 150 percent of the poverty line;*

*(C) set cost-sharing rates for individuals subject to the requirements, on a sliding-fee scale based on income;*

(D) provide that the income of older individuals will be determined by self-declaration;

(E) provide that the confidentiality of individual information related to such cost sharing will be maintained at all times; and

(F) provide that no older individual will be denied a service under the plan because of inability to pay.

(17) SOLICITATION OF VOLUNTARY CONTRIBUTIONS.—The plan shall provide that the State will permit area agencies on aging to permit service providers to solicit, for services provided under the plan, voluntary contributions—

(A) in amounts that are based on the ability of older individuals to make such contributions; and

(B) that will be used to increase, or expand access to, services provided under the plan.

(b) APPROVAL OF STATE PLAN.—The Assistant Secretary shall approve any State plan that fulfills the requirements of subsection (a).

(c) DISAPPROVAL OF STATE PLAN.—

(1) DETERMINATION FOLLOWING DUE PROCESS.—The Assistant Secretary shall not make a final determination disapproving any State plan, or any revision of a State plan, or make a final determination that a State is ineligible under section 201, without first affording the State reasonable notice and a hearing.

(2) WITHHOLDING OF ASSISTANCE.—

(A) IN GENERAL.—If the Assistant Secretary makes a determination, in accordance with paragraph (1), disapproving a State plan the Assistant Secretary shall withhold from the State assistance allotted under subsections (a), (b), and (c) of section 121, and assistance available under sections 123 and 231, for the fiscal year for which such plan is submitted.

(B) DISBURSAL.—

(i) ENTITY.—The Assistant Secretary shall disburse the assistance withheld under subparagraph (A) directly to a public or nonprofit private agency, organization, or institution, or political subdivision of the State, that submits and obtains approval of a plan described in clause (ii).

(ii) PLAN.—The plan referred to in clause (i) shall be submitted and approved in accordance with subsections (a) and (b).

(iii) AUTHORITIES AND REQUIREMENTS.—The Secretary shall issue regulations specifying authorities and requirements applicable to States under this Act, including the limitation specified in section 121(c)(3), that shall apply with respect to the use of such funds by the agency, organization, institution, or political subdivision that receives such funds.

(3) REVIEW BY SECRETARY.—Not later than 30 days after such final determination, a State dissatisfied with such final determination may appeal such final determination to the Secretary for review. If the State appeals such final determination in a timely manner in accordance with subsection (e)(1), the Secretary shall dismiss the appeal filed under this paragraph.

## (4) APPELLATE REVIEW OF DECISION BY SECRETARY.—

(A) *IN GENERAL.*—If the State is dissatisfied with the decision of the Secretary after review under paragraph (3), the State may appeal such decision in a timely manner under subsection (e)(1).

(B) *CONSTRUCTION.*—For purposes of appellate review in accordance with subparagraph (A), a reference in subsection (e) to the Assistant Secretary shall be deemed to be a reference to the Secretary.

## (d) NOTIFICATION OF STATE OF INELIGIBILITY OR NONCOMPLIANCE.—

(1) *IN GENERAL.*—

(A) *FINDING.*—The Assistant Secretary shall make the notification described in subparagraph (B) if the Assistant Secretary, after providing reasonable notice and an opportunity for a hearing to the State agency, finds that—

(i) the State is not eligible under section 201;

(ii) the State plan has been so revised that the plan no longer complies substantially with any provision of subsection (a); or

(iii) in the administration of the plan there is a failure to comply substantially with any provision of subsection (a).

(B) *NOTIFICATION.*—

(i) *IN GENERAL.*—On making the finding described in subparagraph (A), the Assistant Secretary shall notify the State agency that no further assistance will be provided to the State from the allotment of the State under subsection (a), (b), or (c) of section 121, or under section 123 or 231, as appropriate (or, in the discretion of the Assistant Secretary, that further assistance to the State under such subsection or section will be limited to projects under the State plan that are not affected by the noncompliance that is the basis for the finding), until the Assistant Secretary is satisfied that there will no longer be any ineligibility or failure to comply.

(ii) *WITHHOLDING OF ASSISTANCE.*—Until the Assistant Secretary is so satisfied, no further assistance shall be provided to the State from the allotment of the State under subsection (a), (b), or (c) of section 121, or under section 123 or 231, as appropriate (or, in the discretion of the Assistant Secretary, further assistance to the State under such subsection or section shall be limited to projects described in clause (i) and the remainder of the assistance available for allotment to the State under such subsection or available to the State under such section shall be withheld).

(2) *USE OF WITHHELD ASSISTANCE.*—

(A) *ELIGIBLE ORGANIZATIONS.*—The Assistant Secretary shall, in accordance with rules the Secretary shall issue, disburse the assistance withheld under paragraph (1)(B)(ii) directly to a public or nonprofit private agency, organization, or institution, or political subdivision of the State,

*that submits and obtains approval of a plan in accordance with the provisions of subsections (a) and (b).*

(B) *AUTHORITIES AND REQUIREMENTS.*—The Secretary shall issue regulations specifying authorities and requirements applicable to States under this Act, including the limitation specified in section 121(c)(3), that shall apply with respect to the use of such funds by the agency, organization, institution, or political subdivision that receives such funds.

(e) *APPEAL.*—

(1) *IN GENERAL.*—A State that is dissatisfied with a final action of the Assistant Secretary under subsection (c) or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within 30 days after such final action. A copy of the petition shall be transmitted by the clerk of the court to the Assistant Secretary, or any officer designated by the Assistant Secretary for such purpose. The Assistant Secretary shall file in the court the record of the proceedings on which the action of the Assistant Secretary is based, as provided in section 2112 of title 28, United States Code.

(2) *PROCEDURE.*—

(A) *JURISDICTION.*—

(i) *IN GENERAL.*—Except as provided in clause (ii), on the filing of such petition, the court shall have jurisdiction to affirm the order issued by the Assistant Secretary with respect to the action or to set the order aside, in whole or in part, temporarily or permanently.

(ii) *ACTION OF ASSISTANT SECRETARY.*—Until the filing of the record, the Assistant Secretary may modify or set aside the order of the Assistant Secretary.

(B) *EVIDENCE.*—The findings of the Assistant Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court for good cause shown may remand the case to the Assistant Secretary to take further evidence, and the Assistant Secretary shall, within 30 days, file in the court the record of the proceedings to obtain such further evidence. The new or modified findings of fact resulting from the proceedings shall likewise be conclusive if supported by substantial evidence.

(C) *REVIEW.*—The judgment of the court affirming or setting aside, in whole or in part, any action of the Assistant Secretary shall be final, subject to review by the Supreme Court on certiorari or certification as provided in section 1254 of title 28, United States Code.

(3) *NO STAY.*—The commencement of proceedings under this subsection shall not operate as a stay of the action of the Assistant Secretary, unless such a stay is specifically ordered by the court.

(f) *PRESERVATION OF ATTORNEY-CLIENT PRIVILEGE.*—Neither a State, nor a State agency, may require any provider of legal assistance under subtitle B of title III to reveal any information that is protected by the attorney-client privilege.



**SEC. 203. PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS.**

**(a) GRANTS FOR STATE ACTIVITIES.—**

**(1) COST OF ADMINISTRATION OF STATE PLAN.**—Amounts available to a State under paragraph (1) or (2) of section 121(d) may be used to make a grant to the State to pay such percentage as the State agency determines, but not more than 85 percent, of the cost of the administration of the State plan of the State, including—

(A) the preparation of the State plan;

(B) the evaluation of activities carried out under such plan;

(C) the collection of data and the carrying out of analyses related to the need for supportive services (including services to support multipurpose senior centers), and nutrition services (taking into consideration the comparative need for home-delivered nutrition services, congregate nutrition services, and adult day care nutrition services), within the State, and dissemination of information obtained through the data collection and analyses;

(D) the provision of short-term training to personnel of public or nonprofit private agencies, organizations, and institutions engaged in the operation of programs, projects, and activities authorized by subtitles B and D, and subtitles B and C of title III; and

(E) the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services and activities provided under subtitles B and D, and subtitles B and C of title III.

**(2) COST OF ADMINISTRATION OF AREA PLANS.**—The portion of the assistance made available under section 121(d)(1) to a State for any fiscal year, that the State determines will not be required by the State for such year for the purposes described in paragraph (1), may be used by the State to supplement the amount available under section 121(d)(3) to cover part of the cost of the administration of area plans.

**(3) USE OF FUNDS NOT NEEDED FOR ADMINISTRATION OF STATE PLAN.**—The portion of the assistance made available under section 121(d)(1) to a State for any fiscal year, that the State determines will not be required by the State for such year for the purposes described in paragraph (1), may be used by the State to provide services under subtitle B or D, or subtitle B or C of title III, in the State.

**(4) SINGLE PLANNING AND SERVICE AREAS.**—Any State that is designated, under section 201(a)(1)(E) or 201(c), as a single planning and service area covering all, or substantially all, of the older individuals in the State, as determined by the Assistant Secretary, may elect to pay part of the costs of the administration of State and area plans either out of the amount of funds available under paragraph (1) or (2) of section 121(d) or out of the amount of funds made available for the administration of area plans under section 121(d)(3), but shall not pay such costs from both such amounts.

**(b) AUTHORITY TO TRANSFER FUNDS.—**

(1) *TRANSFERS.*—

(A) *IN GENERAL.*—Notwithstanding any other provision of this subtitle or title III and except as provided in subparagraph (B), using the sums received by a State attributable to funds appropriated under subsection (d) or (e) of section 122, as appropriate, the State (after consultation with area agencies on aging and with service providers) may elect to transfer not more than 25 percent of such sums for any fiscal year between programs under subtitle B of title III and programs under subtitle C of title III, for use as the State considers appropriate. The State shall notify the Assistant Secretary of any such election.

(B) *WAIVER.*—If a State submits an application to the Assistant Secretary in which the State demonstrates, to the satisfaction of the Assistant Secretary, that funds received by the State and attributable to funds appropriated under subsection (d) or (e) of section 122 (including funds transferred under subparagraph (A) without regard to this subparagraph) for any fiscal year are insufficient to satisfy the need for services under subtitle B or C of title III, as appropriate, the Assistant Secretary may grant a waiver that permits the State to transfer, under subparagraph (A) to satisfy such need, an additional 25 percent of the funds so received for such fiscal year.

(C) *APPLICATION.*—At a minimum, the application described in subparagraph (B) shall include a description of the additional amount to be transferred, the purposes of the transfer, the need for the transfer, and the impact of the transfer on the provision of services from which the funding will be transferred. The Assistant Secretary shall approve or deny the application in writing.

(2) *DELEGATION OF AUTHORITY TO MAKE TRANSFERS.*—After consultation with service providers, a State agency may delegate to an area agency on aging or any other entity the authority to make a transfer under paragraph (1).

(3) *DATA COLLECTION.*—The Assistant Secretary shall annually collect, and include in the report required by section 113, data regarding the transfers described in paragraph (1), including—

(A) the amount of funds involved in the transfers, analyzed by State; and

(B) the effect of the transfers on the provision of services provided under—

(i) subtitle B of title III; and

(ii) subtitle C of title III, including the effect on the number of meals served.

**SEC. 204. PAYMENTS.**

Payments provided through grants made, or contracts entered into, under subtitle B, C, or D, or subtitle B or C of title III, may be provided (after necessary adjustments resulting from previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Assistant Secretary may determine to be appropriate.

## **Subtitle B—State Long-Term Care Ombudsman Program**

### **SEC. 211. ESTABLISHMENT.**

(a) *IN GENERAL.*—With funds allotted under section 121(a), the Assistant Secretary shall make grants to eligible States to carry out long-term care ombudsman programs.

(b) *OFFICE AND PROGRAM.*—In order to be eligible to receive a grant under subsection (a), a State shall—

(1) establish and operate an Office of the State Long-Term Care Ombudsman (referred to in this subtitle as the “Office”); and

(2) carry out through the Office a State long-term care ombudsman program.

(c) *OMBUDSMAN.*—The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman (referred to in this subtitle as the “Ombudsman”), who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

### **SEC. 212. REQUIREMENTS FOR STATE LONG-TERM CARE OMBUDSMAN PROGRAM.**

(a) *DUTIES.*—The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office—

(1) identify, investigate, and resolve complaints that—

(A) are made by, or on behalf of, older individuals who are residents of long-term care facilities (referred to individually in this section as a “resident”); and

(B) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of such residents (including the welfare and rights of such residents with respect to the appointment and activities of guardians and representative payees), by providers (or representatives of providers) of long-term care services, public agencies, or health and social service agencies;

(2) provide services to protect the health, safety, welfare, and rights of such residents;

(3) inform such residents about the means of obtaining—

(A) services provided by providers or agencies described in paragraph (1)(B); or

(B) identification, investigation, and resolution services described in paragraph (1);

(4) ensure that such residents have regular and timely access to the services provided through the State long-term care ombudsman program and that residents and complainants on behalf of residents (referred to individually in this section as a “complainant”) receive timely responses to their complaints from representatives of the State long-term care ombudsman program (referred to individually in this section as a “program representative”);

(5) represent the interests of such residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of such residents;

(6) provide administrative and technical assistance to entities designated under subsection (c) to assist the entities in participating in the program;

(7)(A) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, rules, and other government policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State; and

(B) recommend such changes in such laws, rules, policies, and actions as the Ombudsman determines to be appropriate;

(8) provide for training for program representatives of the Office;

(9) collect information, as specified by the Assistant Secretary, on the total number of such residents in the State and the number of complaints described in paragraph (1) received by the State, analyzed by type of facility (such as a nursing home or board and care facility); and

(10) carry out such other activities as the State agency determines to be appropriate.

(b) **CONTRACTS AND ARRANGEMENTS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the State agency may establish and operate the Office, and carry out the program, directly or by contract or other arrangement with any public or nonprofit private organization, agency, or institution.

(2) **INELIGIBLE ENTITIES.**—The State agency may not enter into a contract or other arrangement described in paragraph (1) with—

(A) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

(B) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

(c) **DESIGNATION OF LOCAL OMBUDSMAN ENTITIES AND REPRESENTATIVES.**—

(1) **DESIGNATION.**—In carrying out the duties specified in subsection (a), the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an individual (including an employee or volunteer) to represent the entity.

(2) **ELIGIBILITY FOR DESIGNATION.**—Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall—

(A) have demonstrated capability to carry out the responsibilities of the Office;

(B) be free of conflicts of interest;

(C) in the case of the entities, be public or nonprofit private entities; and

(D) meet such additional requirements as the Ombudsman may specify.

(3) **AUTHORITIES OF LOCAL OMBUDSMAN.**—An individual so designated may, in accordance with the policies and procedures established by the Office and the State agency—

(A) provide services to protect the health, safety, welfare, and rights of residents;

(B) ensure that residents in the planning and service area of the entity have regular, timely access to representatives of the State long-term care ombudsman program and timely responses to complaints and requests for assistance;

(C) identify, investigate, and resolve complaints made by or on behalf of such residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of such residents;

(D) represent the interests of such residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of such residents;

(E)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, rules, and other government policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State; and

(ii) recommend such changes in such laws, rules, policies, and actions as the individual determines to be appropriate;

(F) facilitate the ability of the public to comment on such laws, rules, policies, and actions;

(G) support the development of resident and family councils; and

(H) carry out such other activities as the Ombudsman determines to be appropriate.

(4) MONITORING POLICIES AND PROCEDURES.—

(A) IN GENERAL.—The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties specified in subsection (a) and their representatives.

(B) CONSULTATION AND COMMENT.—If the entities are grant recipients, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies and procedures after consultation with the area agencies on aging. The policies and procedures shall provide for participation and comment by such agencies and for resolution of concerns with respect to case activity.

(C) CONFIDENTIALITY AND CONFLICT OF INTEREST.—The State agency shall develop the policies and procedures, in accordance with all provisions of subtitle A, this subtitle, and title III, regarding confidentiality and conflict of interest.

(d) PROCEDURES FOR ACCESS.—The State shall ensure, and shall establish procedures that ensure, that a program representative of the Office shall have—

(1) access to long-term care facilities and residents;

(2)(A) appropriate access to review the medical and social records of a resident, if the representative has the permission of the resident (or the legal representative of the resident), or the

*resident is unable to consent to the review and has no legal representative; or*

*(B) such access to such records as is necessary to investigate a complaint, as determined by the State, if—*

*(i) a legal guardian of the resident refuses to give the permission;*

*(ii) a program representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and*

*(iii) the program representative obtains the approval of the Ombudsman;*

*(3) access to the administrative records, policies, and documents, to which the residents have or the general public has access, of long-term care facilities; and*

*(4) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.*

*(e) DATA COLLECTION AND REPORTING.—The State agency shall—*

*(1) collect and analyze data relating to complaints regarding, and conditions in, long-term care facilities, and to residents, for the purpose of identifying and resolving significant problems;*

*(2) document the program operations and outreach activities of the State long-term care ombudsman program; and*

*(3) submit to the Assistant Secretary and other State agencies, and make available to the public, annual reports containing the data and documentation specified in paragraphs (1) and (2).*

*(f) DISCLOSURE.—*

*(1) ESTABLISHMENT OF PROCEDURES.—The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the State long-term care ombudsman program, including records, policies, documents, and data described in subsections (d) and (e).*

*(2) DISCLOSURE ONLY AT DISCRETION OF OMBUDSMAN.—The procedures described in paragraph (1) shall provide that, subject to paragraph (3), the files described in paragraph (1) may be disclosed only at the discretion of the Ombudsman.*

*(3) NONDISCLOSURE OF IDENTITY.—The procedures described in paragraph (1) shall prohibit the disclosure of the identity of any complainant, or resident of a long-term care facility, with respect to whom the Office maintains such files, unless—*

*(A) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;*

*(B) the complainant or resident gives consent orally and the consent is documented contemporaneously in writing made by a program representative of the Office in accordance with such requirements as the State agency shall establish; or*

*(C) the disclosure is required by court order.*

*(g) CONSULTATION.—In planning and operating the State long-term care ombudsman program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.*

(h) *CONFLICT OF INTEREST.*—The State agency shall—

(1) *ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (c), is subject to a conflict of interest;*

(2) *ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;*

(3) *ensure that the Ombudsman—*

(A) *does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;*

(B) *does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;*

(C) *is not employed by, or participating in the management of, a long-term care facility; and*

(D) *does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; and*

(4) *establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as—*

(A) *the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and*

(B) *the actions that the State agency will require the individuals and such family members to take to remove such conflicts.*

(i) *LEGAL COUNSEL.*—The State agency shall ensure that—

(1)(A) *adequate legal counsel is available and able to provide advice and consultation needed to protect the health, safety, welfare, and rights of residents, and to assist the Ombudsman and the program representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and*

(B) *legal representation is provided to any program representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and*

(2) *the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.*

(j) *LIABILITY.*—The State shall ensure that no program representative of the Office shall be liable under State law for the good faith performance of official duties described in this Act.

(k) *NONINTERFERENCE.*—The State shall—

(1) ensure that willful interference with the representatives of the Office in the performance of official duties under the State long-term care ombudsman program shall be unlawful;

(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

### ***Subtitle C—Senior Community Service Employment Program***

#### **SEC. 221. SHORT TITLE.**

*This subtitle may be cited as the “Older American Community Service Employment Act”.*

#### **SEC. 222. DEFINITIONS.**

*As used in this subtitle:*

(1) **ADMINISTRATIVE COSTS.**—*The term “administrative costs”, used with respect to a project, means—*

*(A) the costs of—*

*(i) salaries, wages, and fringe benefits for project administrators;*

*(ii) consumable office supplies used by project staff;*

*(iii) development, preparation, presentation, management, and evaluation of the project;*

*(iv) establishment and maintenance of accounting and management information systems;*

*(v) establishment and maintenance of advisory councils;*

*(vi) travel of the project administrators;*

*(vii) rent, utilities, custodial services, and indirect costs attributable to the project;*

*(viii) training of staff and technical assistance to subproject sponsor staff;*

*(ix) equipment and material for use by project staff;*

*or*

*(x) audit services; and*

*(B) the costs and expenses described in paragraph (3)(B).*

(2) **COMMUNITY SERVICE EMPLOYMENT.**—*The term “community service employment” means employment described in section 223(a)(1).*

(3) **OTHER PARTICIPANT COSTS.**—

*(A) IN GENERAL.*—*The term “other participant costs” includes—*

*(i) the costs for participants of—*

*(I) transportation;*

*(II) training, including training described in section 223(d)(9); and*

*(III) special job or personal counseling; and*



(ii) incidental expenses necessary for the participation of the participants, such as workshoes, safety eyeglasses, uniforms, tools, and similar items.

(B) *EXCLUSION.*—The term shall not include—

(i) the costs of performing assessments, including the assessment described in section 223(d)(11);

(ii) administrative expenses relating to the training of participants;

(iii) the costs of providing counseling to participants;

(iv) the costs of providing supportive services to participants;

(v) transportation costs incurred in training;

(vi) the costs of evaluating participants for continued participation in employment in a project described in this subtitle; or

(vii) the costs of developing host agency assignments and unsubsidized employment for participants.

(4) *PLACED IN UNSUBSIDIZED EMPLOYMENT.*—

(A) *IN GENERAL.*—The term “placed in unsubsidized employment” means, with respect to an individual who was a participant in a project described in this subtitle, that—

(i)(I) the individual was placed in a position with an employer not later than 90 days after the individual terminated participation in the project, and the position was not subsidized with Federal funds; and

(II) the placement was attributable to participation in the project;

(ii) the employer intended, on the date of the placement, to employ the individual in the position for not less than 90 days;

(iii) the individual was still employed in the position 30 days after the placement; and

(iv) the individual was better off economically when employed in the position than the individual was when participating in the project.

(B) *BETTER OFF ECONOMICALLY.*—As used in this paragraph, the term “better off economically”, used with respect to an individual, means an individual who was a participant in a project described in this subtitle and was placed in a position of employment if—

(i) the individual received greater income for employment in the position than for participation in the project;

(ii) the individual received greater benefits (as defined by the State in which the project is located) for employment in the position than for participation in the project; or

(iii) the position met 2 or more of the following criteria:

(I) The position provided to the individual 20 or more hours of employment per week and a wage that is not less than the minimum wage determined in accordance with section 6(a)(1) of the

*Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).*

*(II) The position was consistent with the individual development plan for the individual.*

*(III) The position provided free housing to the individual.*

*(IV) The position provided free food or meals to the individual.*

*(V) The position provided health benefits to the individual.*

*(VI) The position provided free transportation, or transportation at a reduced cost, to the individual.*

*(VII) The position provided to the individual such economic benefits, other than the benefits described in subclauses (I) through (VI), as the State in which the project was located determined to be appropriate.*

**(5) SMALL STATE.**—*The term “small State” means—*

*(A) a State whose allotment under section 121 is increased as a result of the condition specified in section 121(b)(2)(C)(ii)(I); and*

*(B) a State referred to in section 121(b)(2)(C)(ii)(II).*

**SEC. 223. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.**

**(a) AUTHORITY FOR PROGRAM.**—

**(1) GRANTS.**—*With funds allotted under section 121(b), the Assistant Secretary shall make grants to eligible States and tribal organizations for the purpose of providing, to unemployed low-income older individuals who have poor employment prospects (as determined in accordance with standards issued by the States and organizations), part-time employment opportunities providing community services (including providing services for a business, to the extent permitted by subsection (b)(3).*

**(2) USE OF FUNDS.**—

**(A) WAGES AND BENEFITS.**—

*(i) IN GENERAL.*—*Except as provided in clause (ii) or subparagraph (C) or (D), not less than 90 percent of the funds made available through a grant made under paragraph (1) shall be used to pay wages and benefits for older individuals who are employed under projects carried out under this subtitle.*

*(ii) SMALL STATES.*—*Except as provided in subparagraph (C) or (D), not less than 85 percent of the funds made available through a grant made under paragraph (1) to a small State shall be used to pay wages and benefits for older individuals who are employed under projects carried out under this subtitle.*

**(B) ADMINISTRATIVE COSTS.**—

*(i) IN GENERAL.*—*Except as provided in clause (ii), not more than 10 percent of the funds made available through a grant made under paragraph (1) may be used to pay for administrative costs.*

*(ii) SMALL STATES.*—*Not more than 15 percent of the funds made available through a grant made under*

paragraph (1) to a small State may be used to pay for administrative costs.

(C) *OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT DIRECTLY.*—

(i) *IN GENERAL.*—A State or tribal organization that receives a grant under paragraph (1) for a project and that elects to carry out the project directly, or through an agreement under subsection (b) with a political subdivision, may request that the Assistant Secretary provide for a fiscal year—

(I) a general waiver of subparagraph (A); or

(II) the general waiver and an additional waiver of subparagraph (A).

(ii) *REQUEST.*—

(I) *IN GENERAL.*—The State or tribal organization shall submit such a request at such time, in such form, and containing such information as the Assistant Secretary may require by rule.

(II) *INFORMATION FOR ADDITIONAL WAIVER.*—Except as provided in subclause (III), a State or tribal organization that requests such an additional waiver for a fiscal year shall submit with the request information demonstrating that at least 30 percent of the participants in the projects carried out through a grant made under paragraph (1) for the previous year to the State or organization were placed in unsubsidized employment.

(III) *WAIVER.*—The Assistant Secretary may elect to waive the requirement described in subclause (II) for tribal organizations serving Native American populations in which the unemployment rate (as determined by the Secretary of Labor for the most recent 12-month period for which data are available, prior to the fiscal year for which the determination is made) exceeds 50 percent.

(iii) *APPROVAL.*—If the Assistant Secretary determines that the State or tribal organization has submitted a request that meets the requirements of clause (ii), the Assistant Secretary shall approve the request.

(iv) *GENERAL WAIVER.*—A general waiver referred to in this subparagraph shall permit a State or tribal organization to use—

(I) not less than 80 percent of the funds made available through the grant for the fiscal year for which the waiver is requested to pay wages and benefits described in subparagraph (A)(i);

(II) not more than 10 percent (or not more than 15 percent in the case of a small State) of such funds to pay for administrative costs; and

(III) the remaining portion of such funds to pay for other participant costs.

(v) *ADDITIONAL WAIVER.*—A State or tribal organization that receives a general waiver and an additional waiver referred to in this subparagraph may use—

(I) not less than 75 percent of the funds made available through the grant for the fiscal year for which the waiver is requested to pay wages and benefits described in subparagraph (A)(i);

(II) not more than 10 percent (or not more than 15 percent in the case of a small State) of such funds to pay for administrative costs; and

(III) the remaining portion of such funds to pay for other participant costs.

**(D) OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT UNDER AGREEMENTS.—**

(i) **IN GENERAL.**—An entity, other than a State or tribal organization that receives a grant under subsection (a), or a political subdivision, that carries out a project under a grant made under paragraph (1) may request that the State or tribal organization that received the grant provide for a fiscal year—

(I) a general waiver of subparagraph (A); and

(II) an additional waiver of subparagraph (A).

(ii) **APPLICATION OF PROVISIONS.**—The provisions of clauses (ii) through (v) of subparagraph (C) shall apply to such requests and such general and additional waivers, as appropriate, except that references in such provisions—

(I) to a State or tribal organization shall be deemed to be references to the entity referred to in clause (i); and

(II) to the Assistant Secretary shall be deemed to be references to the State or tribal organization that received the grant referred to in clause (i).

**(E) NON-FEDERAL SOURCES.**—To the maximum extent practicable, an entity that carries out a project under this subtitle shall provide for the payment of the costs described in subparagraph (B), (C), or (D) from non-Federal sources.

**(b) ELIGIBILITY FOR GRANTS.—**

**(1) APPLICATION AND AGREEMENTS.**—To be eligible to receive a grant under subsection (a), a State or tribal organization shall submit to the Assistant Secretary an annual application at such time, in such form, and containing such information as the Assistant Secretary may require by rule, including an assurance that funds made available through such grant—

(A) will be used by the State or tribal organization to carry out projects for the purpose specified in subsection (a)(1)—

(i) directly (in accordance with the requirements of subsection (d)); or

(ii) through agreements that satisfy the requirements of this subsection and subsection (d); and

(B) will not be used to carry out a project involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

**(2) PARTICIPANTS IN AGREEMENT.**—Such agreements shall be entered into by the State or tribal organization with—

- (A) *public or nonprofit private agencies or organizations;*
- (B) *political subdivisions of States having elected or duly appointed governing officials (or combinations of such political subdivisions);*
- (C) *tribal organizations; and*
- (D) *area agencies on aging.*

(3) *AGREEMENTS WITH BUSINESSES.—At the election of a State or tribal organization that receives a grant made under subsection (a), not more than 5 percent of the funds made available through the grant may be used to enter into agreements with businesses (giving special consideration to businesses in growth industries) to pay for not more than 50 percent of the cost of providing part-time employment (including arranging for the provision of part-time employment) to older individuals described in subsection (a)(1).*

(c) *COMPETITIVE BASIS.—In selecting an entity with whom a State or tribal organization will enter into an agreement under subsection (b), the State or organization—*

- (1) *shall make the selection on a competitive basis; and*
- (2) *shall take into consideration, where appropriate, the demonstrated ability of the entity to provide employment (including arranging for the provision of employment) to older individuals as described in subsection (a)(1).*

(d) *REQUIREMENTS.—*

(1) *IN GENERAL.—Each agreement entered into under subsection (b) for a project shall provide that no payment shall be made by the State or tribal organization toward the cost of such project unless the State or tribal organization determines that such project, or the entity that carries out such project, as appropriate, will satisfy each of the conditions described in paragraphs (2) through (13). Each State or tribal organization that carries out a project directly under subsection (b) shall ensure that such project or the State or organization, as appropriate, will satisfy each of the conditions described in paragraphs (2) through (13).*

(2) *FEDERAL SHARE REQUIREMENT.—*

(A) *IN GENERAL.—The entity that carries out the project shall use funds received for such project that are made available through a grant made under subsection (a) to pay for the Federal share of the cost of the project.*

(B) *FEDERAL SHARE.—The Federal share of the cost of the project shall be not more than 85 percent (or not more than 50 percent in the case of a project carried out under an agreement described in subsection (b)(3)).*

(C) *NON-FEDERAL SHARE.—The non-Federal share of such cost shall be contributed in cash or in kind. In determining the amount of the non-Federal share, the Assistant Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.*

(3) *PERSONNEL.—The project shall provide employment only for older individuals described in subsection (a)(1), except for necessary technical, administrative, and supervisory personnel. Such personnel shall, to the fullest extent possible, be recruited from among older individuals described in subsection (a)(1).*

(4) *COMMUNITIES.*—

(A) *IN GENERAL.*—If such project is carried out by or under an agreement with a State, the project shall provide employment for such individuals in the community in which such individuals reside, or in nearby communities.

(B) *RESERVATIONS.*—If such project is carried out by a tribal organization that receives a grant under subsection (a), or enters into an agreement under subsection (b) with a State that receives a grant under subsection (a), the project shall provide employment for such individuals who are Indians residing on an Indian reservation, as the term is defined in section 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. 3501(2)).

(5) *SERVICES.*—The project (except a project carried out under an agreement described in subsection (b)(3)) shall employ older individuals described in subsection (a)(1) in positions in which the individuals provide services—

(A) related to publicly owned and operated facilities or public projects; or

(B) related to projects sponsored by organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 that are exempt from taxation under section 501(a) of such Code.

(6) *GENERAL WELFARE.*—The project shall contribute to the general welfare of the community in which the project is carried out.

(7) *EMPLOYMENT IMPACTS.*—The project shall—

(A) result in an increase in employment opportunities over the opportunities that would otherwise be available;

(B) not result in the displacement (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits) of currently employed workers (as of the date of the beginning of the project); and

(C) not impair existing contracts (as of the date of the beginning of the project) or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

(8) *RECRUITMENT AND SELECTION.*—In carrying out the project, the entity shall utilize methods of recruitment and selection (including listing job vacancies with an employment agency operated by any State or political subdivision of a State) that will ensure that the maximum number of older individuals described in subsection (a)(1) will have an opportunity to participate in the project.

(9) *TRAINING.*—The project shall include such training as may be necessary to make the most effective use of the skills and talents of such individuals who are participating in the project and assist in their transition into employment for which no financial assistance is provided under this subtitle.

(10) *ADVICE.*—The entity shall establish or administer the project after receiving the advice of—

(A) individuals competent in the field of service in which the project will provide employment; and

(B) individuals who are knowledgeable with regard to the needs of older individuals.

(11) *ASSESSMENT.*—The entity shall prepare an assessment of—

(A) the skills and talents of each participating older individual;

(B) the need of the older individual for supportive services; and

(C) the ability of the older individual to perform community service employment;

except to the extent that the project has an assessment of such skills and talents, such need, or such ability, of the individual that was prepared recently pursuant to another Federal or State employment or job training program.

(12) *NOTICE AND EXPLANATION.*—The entity that carries out such project shall post in the project workplace a notice, and shall make available to each individual associated with such project a written explanation, clarifying the law with respect to allowable and unallowable political activities under chapter 15 of title 5, United States Code, applicable to the project and to each category of individuals associated with such project.

(13) *PRIORITY IN EMPLOYMENT OPPORTUNITIES.*—In providing employment opportunities (including arranging for the provision of employment opportunities) under the project, such entity shall give priority to low-income older individuals described in subsection (a)(1) who are 60 years of age or older.

(e) *PREREQUISITE DETERMINATIONS AND COORDINATION.*—

(1) *DETERMINATIONS.*—To effectively carry out subsection (b), a State or tribal organization that receives a grant under subsection (a) for a fiscal year shall, after consultation with the appropriate area agencies on aging and with other organizations that received funds under this subtitle in the preceding fiscal year—

(A) make a determination identifying the localities in the State (or on an Indian reservation if a tribal organization receives such a grant or enters into an agreement with a State that receives such a grant), in which projects described in subsection (b) are most needed;

(B) in making such determination, consider the local employment situations and the types of skills possessed by available local older individuals described in subsection (a)(1); and

(C) make a determination identifying potential projects for, and the number and percentage of such individuals in the local population of, each such locality.

(2) *COORDINATION.*—To increase employment opportunities available to older individuals, the State or tribal organization shall coordinate the projects assisted under this subtitle with—

(A) other programs, projects, and activities carried out under this Act; and

(B) other Federal or State employment or job training programs.

(3) *PARTICIPANTS.*—To the maximum extent practicable, the State or tribal organization shall ensure that entities that carry

out projects under this subtitle provide employment (including arranging for the provision of employment) under this subtitle to older individuals who on the day before the effective date of section 3 of the Older Americans Amendments of 1996 were participants under an agreement entered into under section 502(b) (as in effect on the day before such date).

(f) **EQUITABLE USE OF FUNDS.**—To the maximum extent practicable, the State or tribal organization shall use funds available for this subtitle to enter into agreements under subsection (b), or carry out this subtitle, in an equitable manner, taking into consideration the number of eligible older individuals in the various geographical areas served under the agreements or by the State or organization and the relative distribution of such individuals among urban and rural areas.

(g) **PRIOR SUBMISSION OF PROJECT DESCRIPTION.**—If an entity carries out a project under this subtitle in a planning and service area, and the entity is not the area agency on aging for the planning and service area, the entity shall carry out the project in consultation with the area agency on aging and shall submit to the area agency on aging, not less than 30 days before undertaking the project, a description (including the location) of such project.

(h) **ALTERNATIVE WORK MODES; TECHNICAL ASSISTANCE.**—To assist entities carrying out, and participants in, projects assisted under this subtitle, the State or tribal organization may develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to groups representing business and industry, and workers, as well as to individual employers, where appropriate.

(i) **REPORT.**—If a State or tribal organization elects under subsection (b) to enter into agreements described in paragraph (3) of such subsection for a fiscal year, the State or tribal organization shall submit to the Assistant Secretary a report describing the projects carried out under such agreements.

(j) **DATA COLLECTION AND ANALYSIS.**—A State or tribal organization that receives a grant under subsection (a) for a project shall use a portion of the funds available for administrative costs, as described in subsection (a)(2)(B)—

(1) to collect data and carry out analyses related to the need for community service employment within the population served under the grant; and

(2) to disseminate information obtained through the data collection and analyses.

(k) **RULES.**—The Secretary shall issue, and amend from time to time, rules that require States and tribal organizations that receive grants under subsection (a) to establish, to the maximum extent practicable, for projects carried out under this subtitle the goal of annually placing not less than 20 percent of project participants in employment for which no financial assistance is provided under this subtitle.

#### **SEC. 224. PARTICIPANTS NOT FEDERAL EMPLOYEES.**

(a) **PROJECT PARTICIPANTS.**—Older individuals described in section 223(a)(1) who participate in a project assisted under this subtitle shall not be considered to be Federal employees as a result of



such participation and shall not be subject to the provisions of part III of title 5, United States Code.

(b) **WORKMEN'S COMPENSATION.**—No State or tribal organization shall enter into an agreement under section 223(b) with, or carry out such a project through, an entity who is, or whose employees are, under State law, exempted from the operation of the State workmen's compensation law, generally applicable to employees, unless the entity undertakes to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the individuals employed under the contract shall enjoy workmen's compensation coverage equal to such coverage provided by law for covered employment.

**SEC. 225. EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS.**

Funds received by eligible individuals from projects carried out under this subtitle shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

## **Subtitle D—Disease Prevention and Health Promotion Program**

**SEC. 231. ESTABLISHMENT OF GRANT PROGRAM.**

(a) **AUTHORITY.**—The Assistant Secretary shall carry out a program for making grants to States, to enable the States to assist eligible area agencies on aging to provide disease prevention and health promotion services and information at multipurpose senior centers, at congregate meal sites, through home-delivered meal programs, or at other appropriate sites. In carrying out such program, the Assistant Secretary shall consult with the Director of the Centers for Disease Control and Prevention and the Director of the National Institute on Aging.

(b) **SERVICES.**—Each State, in consultation with the Assistant Secretary, shall determine the services to be provided as disease prevention and health promotion services in the State under this subtitle. The State may not include services for which payment may be made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(c) **USE OF SERVICES.**—Each State, to the extent possible, shall assure that area agencies on aging use services provided by other community organizations and agencies in carrying out the provisions of this subtitle.

**SEC. 232. DISTRIBUTION TO AREA AGENCIES ON AGING.**

The State agency shall give priority, in assisting area agencies on aging under this subtitle, to agencies serving areas of the State—

- (1) that are medically underserved; and
- (2) in which there are large numbers of older individuals with greatest economic need who are in need of services described in section 231.

## **TITLE III—LOCAL PROGRAMS ON AGING**

### **Subtitle A—General Provisions**

#### **SEC. 301. ELIGIBILITY OF LOCAL ORGANIZATIONS.**

(a) *DESIGNATION OF AREA AGENCIES ON AGING.*—An area agency on aging designated under section 201(a)—

(1) shall be—

(A) an established office of aging;

(B) any office or agency of a unit of general purpose local government, that is designated to function only for the purpose of serving as an area agency on aging by the chief elected official of such unit;

(C) any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act on behalf of such combination only for such purpose;

(D) any public or nonprofit private agency in a planning and service area, or any separate organizational unit within such agency, that is under the supervision or direction for such purpose of the designated State agency and that can and will engage only in the planning or provision of a broad range of supportive services, or of nutrition services, within the planning and service area; or

(E) in the case of a State designated under section 201(a)(1)(E) as a single planning and service area, the State agency; and

(2) shall provide an assurance, determined to be adequate by the State agency, that the area agency on aging will have the ability to develop an area plan in accordance with section 302 and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area.

(b) *PREFERENCE.*—In designating an area agency on aging within the planning and service area, including any unit of general purpose local government designated as a planning and service area, the State shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

#### **SEC. 302. AREA PLANS.**

(a) *PLAN.*—To be eligible for designation as an area agency on aging in a State, an entity shall prepare, develop, and submit to the State agency an area plan for a planning and service area for a 2-, 3-, or 4-year period determined by the State agency, with such annual revisions as may be necessary. Each such plan shall be based on a uniform format for area plans within the State. Each such plan shall comply with all of the following requirements:

(1) *SCOPE OF PLAN.*—The plan shall provide, through a comprehensive and coordinated system, for—

(A) supportive services (including, where appropriate, services to support the establishment or maintenance of multipurpose senior centers), nutrition services (including home-delivered nutrition services and congregate nutrition

services), within the planning and service area covered by the plan;

(B) determining the extent of need for supportive services (including services to support multipurpose senior centers), and nutrition services (taking into consideration the comparative need for home-delivered nutrition services, congregate nutrition services, and adult day care nutrition services), in such area (taking into consideration, among other things, the number of low-income older individuals residing in such area, the number of older individuals with greatest economic need residing in such area, the number of older individuals with greatest social need residing in such area, the number of older individuals who are Indians residing in such area, and the efforts of voluntary organizations in such area);

(C) evaluating the effectiveness of the use of resources in meeting such need; and

(D) entering into agreements with providers of supportive services (including services to support multipurpose senior centers) and nutrition services in such area, for the provision of such services or centers to meet such need.

(2) *PROMOTION OF INDEPENDENT LIVING.*—The plan shall promote independent living through the use of home- and community-based care for older individuals, address the nutrition and health promotion needs of older individuals, provide advocacy for and protect the rights of vulnerable older individuals in both community-based and institutional settings, specify efforts to be undertaken to ensure the quality of supportive services and nutrition services provided in such settings, enhance access to services provided under the plan, and encourage community participation in carrying out the plan.

(3) *INFORMATION AND ASSISTANCE SERVICES.*—The plan shall provide for the establishment and maintenance of information and assistance services to ensure that older individuals within the planning and service area covered by the plan will have reasonably convenient access to services provided under the plan, with particular emphasis on linking services available to—

(A) isolated older individuals; and

(B) older individuals with Alzheimer's disease or related disorders and with neurological or organic brain dysfunction (and the caretakers of such individuals).

(4) *SPECIFIC OBJECTIVES; OUTREACH.*—

(A) *OBJECTIVES.*—The plan shall contain an assurance that the area agency on aging will set specific objectives for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals residing in rural areas.

(B) *OUTREACH.*—The plan shall contain assurances that the area agency on aging will use outreach efforts that will—

(i) identify individuals eligible for assistance under subtitle B or C, with special emphasis on—

(I) older individuals residing in rural areas;

(II) older individuals with greatest economic need;

(III) older individuals with greatest social need, with particular attention to low-income minority individuals;

(IV) older individuals with severe disabilities;

(V) older individuals with limited-English speaking ability;

(VI) older individuals with Alzheimer's disease or related disorders and with neurological or organic brain dysfunction (and the caretakers of such individuals); and

(VII) low-income minority older individuals; and

(ii) inform the older individuals referred to in subclauses (I) through (VII) of clause (i), and the caretakers of such individuals, of the availability of such assistance.

(5) *EVALUATIONS; TECHNICAL ASSISTANCE AND INFORMATION; ADVOCACY; ADVISORY COUNCIL.*—The plan shall provide that the area agency on aging will—

(A) furnish appropriate technical assistance, and information in a timely manner, to providers of supportive services (including services to support multipurpose senior centers) and nutrition services in the planning and service area covered by the area plan;

(B) take into account, in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under the plan;

(C) serve as the advocate and focal point for older individuals within communities in the planning and service area by (in cooperation with agencies, organizations, institutions, and individuals participating in activities under the plan) monitoring, evaluating, and commenting on all policies, programs, hearings, levies, and community actions within the area that will affect older individuals;

(D) establish an advisory council consisting of older individuals who are participants or who are eligible to participate in programs carried out under this Act, representatives of older individuals, local elected officials, providers of veterans' health care (if appropriate), and the general public, to advise continuously the area agency on aging on all matters relating to the development of the area plan, the administration of the plan, and operations conducted under the plan;

(E) facilitate the coordination of community-based, long-term care services for older individuals designed to—

(i) retain individuals in their homes, deferring unnecessary, costly institutionalization; and

(ii) include the development of case management services as a component of the long-term care services;

(F) facilitate the involvement of long-term care providers in the coordination of community-based long-term care services for older individuals and work to ensure commu-

nity awareness of, and involvement in, addressing the needs of residents of long-term care facilities;

(G) coordinate services and activities carried out under the area plan with—

(i) activities of community-based organizations, established for the benefit of older individuals with Alzheimer's disease or related disorders and with neurological or organic brain dysfunction (and the families of such individuals); and

(ii) the mental health services provided by community health centers and by other public and nonprofit private agencies, organizations, and institutions; and

(H) establish a grievance procedure for older individuals who are dissatisfied with services provided, or who are denied services, under subtitle B or C.

(6) **VOLUNTEERS.**—The plan shall demonstrate that the area agency on aging will encourage, and enlist the services of, local volunteer groups to provide assistance and services appropriate to the unique needs of older individuals within the planning and service area.

(7) **PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.**—Whenever the State desires to provide for programs for the prevention of elder abuse, neglect, and exploitation for a fiscal year, the plan shall—

(A) contain an assurance that the area agency on aging will conduct such a program in a manner consistent with the provisions of this Act;

(B) contain an assurance that the area agency on aging will provide public education and outreach to identify and prevent elder abuse, neglect, and exploitation;

(C) contain an assurance that the area agency on aging—

(i) will establish procedures for receipt of reports of elder abuse, neglect, and exploitation; and

(ii) on receipt of a report of a known or suspected instance of abuse, neglect, or exploitation of an older individual, will promptly refer the reported matter to the proper authorities for investigation and action consistent with State law; and

(D) specify other activities that the area agency—

(i) determines to be beneficial in the prevention of elder abuse, neglect, and exploitation; and

(ii) intends to carry out under such program.

(8) **DESCRIPTION OF ACTIVITIES.**—The plan shall—

(A) describe all activities of the area agency on aging for which financial assistance is provided to carry out subtitles B and C, and subtitle D of title II; and

(B) contain an assurance that such activities conform with—

(i) the responsibilities of the area agency on aging, as set forth in this subsection; and

(ii) the laws, rules, and policies of the State in which the area agency on aging is carrying out an area plan.

(9) **DISCLOSURE OF SOURCES AND EXPENDITURES OF FUNDS.**—The plan shall contain an assurance that the area agency on

aging will, on the request of the State and for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds such agency receives or expends to provide assistance to older individuals.

(10) *PROHIBITION ON MISUSE OF FUNDS.*—The plan shall provide assurances that funds received from allotments made under section 121(c) and assistance made available under sections 123 and 231 will not be used to pay any part of a cost (including an administrative cost) incurred by the area agency on aging to carry out a contract or commercial arrangement that is not carried out to implement subtitle B or C, or subtitle D of title II.

(11) *CASE MANAGEMENT SERVICES.*—The plan shall provide that case management services provided under this title through the area agency on aging will—

(A) not duplicate case management services provided through other Federal and State programs;

(B) be coordinated with services described in subparagraph (A);

(C) include the provision, to consumers, of a list of available service providers for appropriate care in the planning and service area served by the agency;

(D) be provided in a manner that gives a consumer the right to choose a provider of preference; and

(E) be provided by—

(i) a public agency; or

(ii) a nonprofit private agency that—

(I) does not provide, and does not have a direct or indirect ownership or controlling interest in, or a direct or indirect affiliation or relationship with, an entity that provides services (other than case management services, outreach, and information and referral) under this title;

(II) is located in a rural area and obtains a waiver of the requirement described in subclause (I); or

(III) is a community-based organization described in section 223(d)(5)(B), and is located in a planning and service area for which the area agency on aging contracted with a nonprofit private agency to provide case management services in fiscal year 1992.

(12) *COST SHARING.*—The plan shall contain an assurance that any requirements for cost sharing by recipients of services provided under the plan will be consistent with the provisions of the State plan that satisfy the requirement specified in section 202(a)(16).

(b) *PRESERVATION OF ATTORNEY-CLIENT PRIVILEGE.*—An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

(c) *STATE AUTHORITY TO WITHHOLD ASSISTANCE.*—

(1) *FAILURE TO COMPLY.*—If the head of a State agency finds that an area agency on aging has failed to comply with Federal or State laws (including the area plan requirements of this section), rules, or policies, the State may withhold from the area agency on aging a portion of the assistance available under the allotment made under section 121(c) and of the assistance available under sections 123 and 231.

(2) *DUE PROCESS.*—

(A) *IN GENERAL.*—The head of the State agency shall not withhold assistance under paragraph (1) without first affording the area agency on aging due process in accordance with procedures established by the State agency.

(B) *PROCEDURES.*—At a minimum, such procedures shall include procedures for—

(i) providing notice of an action to withhold assistance;

(ii) providing documentation of the need for such action; and

(iii) at the request of the area agency on aging, conducting a public hearing concerning such action.

(3) *DIRECT ADMINISTRATION OF PROGRAMS.*—

(A) *IN GENERAL.*—If the State agency withholds the assistance under paragraphs (1) and (2), the State agency may use the assistance withheld to directly administer programs under subtitle B or C, or subtitle D of title II, in the planning and service area served by the area agency on aging for a period of not to exceed 180 days, except as provided in subparagraph (B).

(B) *EXTENSION OF PERIOD.*—If the State agency determines that the area agency on aging has not taken corrective action, or if the State agency does not approve the corrective action, during the 180-day period described in subparagraph (A), the State agency may extend the period until the area agency on aging takes satisfactory corrective action, but not for longer than 1 year. If, at the end of the 1-year extension, the area agency on aging has not taken satisfactory corrective action, the State shall designate a new area agency on aging to serve the planning and service area.

**SEC. 303. SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS.**

(a) *IN GENERAL.*—

(1) *STATE OPTIONS.*—Notwithstanding any other provision of law, a State may—

(A) administer and provide services under a program described in paragraph (2)(A) through grants or contracts with charitable, religious, or private organizations; and

(B) provide beneficiaries of assistance under a program described in paragraph (2)(B) with certificates, vouchers, or other forms of disbursement that are redeemable with such organizations.

(2) *PROGRAM DESCRIBED.*—The program described in this paragraph is a program funded under this Act that—

(A) permits grants or contracts with organizations; or

(B) permits certificates, vouchers, or other forms of disbursement to be provided to beneficiaries as a means of providing assistance.

(b) *RELIGIOUS ORGANIZATIONS.*—The purpose of this section is to allow religious organizations to receive a grant, to contract, or to accept certificates, vouchers, or other forms of disbursement under any program described in subsection (a)(2), on the same basis as any other provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(c) *NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.*—Religious organizations are eligible, on the same basis as any other private organization, as grant recipients or contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in subsection (a)(2) so long as the programs are implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization that is or applies to be a grant recipient or contractor to provide assistance, or that accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

(d) *RELIGIOUS CHARACTER AND FREEDOM.*—

(1) *RELIGIOUS ORGANIZATIONS.*—Notwithstanding any other provision of law, any religious organization with a grant or contract referred to in subsection (a)(1)(A), or that accepts certificates, vouchers, or other forms of disbursement referred to in subsection (a)(1)(B), shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

(2) *ADDITIONAL SAFEGUARDS.*—Neither the Federal Government nor a State shall require a religious organization to—

(A) alter its form of internal governance; or

(B) remove religious art, icons, scripture, or other symbols;

in order to be eligible to receive a grant or contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, funded under a program described in subsection (a)(2).

(e) *RIGHTS OF BENEFICIARIES OF ASSISTANCE.*—

(1) *IN GENERAL.*—If an individual described in paragraph (2) has an objection to the religious character of the organization from which the individual receives, or would receive, assistance funded under any program described in subsection (a)(2), the State in which the individual resides shall provide to such individual (if otherwise eligible for such assistance) from an alternative provider assistance the value of which is not less than the value of the assistance that the individual would have received from such organization.

(2) *INDIVIDUAL DESCRIBED.*—An individual described in this paragraph is an individual who receives, applies for, or re-



quests to apply for, assistance under a program described in subsection (a)(2).

(f) **NONDISCRIMINATION IN EMPLOYMENT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), nothing in this section shall be construed to modify or affect the provisions of any other Federal or State law or regulation that relates to discrimination in employment on the basis of religion.

(2) **EXCEPTION.**—A religious organization with a grant or contract referred to in subsection (a)(1)(A), or that accepts certificates, vouchers, or other forms of disbursement referred to in subsection (a)(1)(B), may require that an employee rendering service pursuant to such grant or contract, or pursuant to the organization's acceptance of certificates, vouchers, or other forms of disbursement adhere to—

(A) the religious tenets and teachings of such organization; and

(B) any rules of the organization regarding the use of drugs or alcohol.

(g) **NONDISCRIMINATION AGAINST BENEFICIARIES.**—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in subsection (a)(2) on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

(h) **FISCAL ACCOUNTABILITY.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), any religious organization receiving a grant or contracting to provide assistance funded under any program described in subsection (a)(2) shall be subject to the same regulations as other grant recipients or contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

(2) **LIMITED AUDIT.**—If such organization segregates Federal funds provided under such programs into separate accounts, only the Federal funds provided to the organization shall be subject to audit.

(i) **COMPLIANCE.**—A religious organization that has its rights under this section violated may enforce its claim exclusively by asserting a civil action for such relief as may be appropriate, including injunctive relief or damages, in an appropriate State court against the entity or agency that allegedly commits such violation.

(j) **LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.**—

(1) **IN GENERAL.**—No funds provided directly to organizations (including funds provided through a grant or contract) to provide services and administer programs funded under this Act shall be expended for sectarian worship or instruction.

(2) **EXCEPTION.**—Paragraph (1) shall not apply to financial assistance provided to or on behalf of beneficiaries of assistance in the form of certificates, vouchers, or other forms of disbursement, if such beneficiary may choose where such assistance shall be redeemed.

## ***Subtitle B—Supportive Services and Senior Centers***

### **SEC. 311. PROGRAM AUTHORIZED.**

*The Assistant Secretary shall carry out a program for making grants to States, under State plans approved under section 202, to enable the States to assist eligible area agencies on aging in carrying out through grants and contracts with eligible entities any of the following supportive services that are necessary for the general welfare of older individuals:*

*(1) Health (including mental health), education and training, welfare, informational, recreational, homemaker, counseling, or referral services.*

*(2) Services (including information and assistance services) designed to encourage and assist older individuals to use the facilities and services available to the individuals, including language translation services to assist older individuals with limited-English speaking ability to obtain services under this subtitle.*

*(3) Services designed—*

*(A) to assist older individuals to obtain adequate housing, including residential repair and renovation projects designed to enable older individuals to maintain their residences in conformity with minimum housing standards;*

*(B) to adapt residences to meet the needs of older individuals with disabilities;*

*(C) to prevent unlawful entry into residences of older individuals, through the installation of security devices and through structural modifications or alterations of such residences; or*

*(D) to receive applications from older individuals for housing under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q).*

*(4) Services designed to assist older individuals to avoid institutionalization, and services designed to assist individuals in long-term care institutions who are able to return to their communities, including—*

*(A) client assessment services and development and coordination of community-based services;*

*(B) in-home services for frail older individuals, including services for older individuals with Alzheimer's disease and related disorders and with neurological or organic brain dysfunction (and for families of such individuals);*

*(C) supportive activities to meet the special needs of caregivers, including caregivers who provide in-home services to frail older individuals; and*

*(D) in-home and other community-based services to assist older individuals to live independently in a home environment, including home health, homemaker, shopping, escort, reader, and letter-writing services.*

*(5) Services designed to provide to older individuals legal assistance and other counseling services and assistance, including—*

- (A) *tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage;*
- (B) *representation—*
  - (i) *of individuals who are wards (or are allegedly incapacitated); and*
  - (ii) *in guardianship proceedings of older individuals who seek to become guardians, if other adequate representation is unavailable in the proceedings; and*
- (C) *provision, to older individuals who provide uncompensated care to their adult children with disabilities, of counseling to assist such older individuals with permanency planning for such children.*
- (6) *Services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity.*
- (7) *Activities designed to promote disease prevention and health promotion.*
- (8) *Services designed to provide, for older individuals, pre-retirement counseling and assistance in planning for and assessing future post-retirement needs with regard to insurance benefits, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate matters.*
- (9) *Services that are designed to meet the unique needs of older individuals who are disabled and of older individuals who provide uncompensated care to their adult children with disabilities.*
- (10) *Services to encourage the employment of older individuals (which shall be coordinated with the assistance provided through the community service employment program carried out under subtitle C of title II), including job and second career counseling and, in an appropriate case, job development, referral, and placement.*
- (11) *Services for the prevention of elder abuse, neglect, and exploitation.*
- (12) *Crime prevention services, and victim assistance programs, for older individuals.*
- (13) *Health and nutrition education services, including information concerning prevention, diagnosis, treatment, and rehabilitation relating to age-related diseases and chronic disabling conditions.*
- (14) *Services designed to enable mentally impaired older individuals to attain and maintain emotional well-being and independent living through a comprehensive and coordinated system of services described in the other paragraphs of this section.*
- (15) *Services designed to provide information and training for individuals who are or may become guardians or representative payees of older individuals, including information on the powers and duties of guardians and representative payees and on alternatives to guardianships.*
- (16) *Services to encourage and facilitate regular interaction between school-age children and older individuals, including visits in long-term care facilities, multipurpose senior centers, and other settings.*

(17) *Services to support the establishment or maintenance of multipurpose senior centers.*

(18) *Services that provide reasonable opportunities for older individuals to participate on a voluntary basis in multigenerational activities.*

(19) *Transportation services to facilitate access to the services authorized to be provided under any other paragraph of this section.*

(20) *Services provided through a State long-term care ombudsman program in accordance with subtitle B of title II.*

(21) *Any other services, if provision of the services is consistent with the core objectives described in section 101(2).*

### ***Subtitle C—Nutrition Services***

#### **SEC. 321. PROGRAM AUTHORIZED.**

(a) *NUTRITION SERVICES.*—*The Assistant Secretary shall carry out a program for making grants to States, under State plans approved under section 202, to enable the States to assist eligible area agencies on aging in establishing and operating, through grants and contracts with agencies, nutrition projects that provide 5 or more days a week (or less frequently in a rural area where such frequency is not feasible or in a State for which a lesser frequency is approved by the State agency)—*

*(1) meals to eligible individuals in congregate meals settings; and*

*(2) meals to eligible individuals in their homes.*

(b) *REQUIREMENTS.*—*Meal providers providing meals under a grant or contract made under this subtitle shall provide eligible older individuals with at least 1 meal per day and any additional meals per day that the agency carrying out the project under the grant or contract may elect to provide.*

#### **SEC. 322. ADDITIONAL REQUIREMENTS.**

*A State that establishes and operates a nutrition project under this subtitle shall—*

*(1) solicit the advice of a dietitian or an individual with comparable expertise in the planning of nutritional services; and*

*(2) ensure that—*

*(A) the project provides meals that—*

*(i) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture;*

*(ii) provide to each older individual served by the project—*

*(I) a minimum of 33⅓ percent of the daily recommended dietary allowances established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, if the project provides 1 meal per day;*

*(II) a minimum of 66⅔ percent of the allowances, if the project provides 2 meals per day; and*

*(III) 100 percent of the allowances, if the project provides 3 meals per day; and*

(iii) to the maximum extent practicable, are adjusted to meet any special dietary needs of project participants;

(B) the agency carrying out the project provides flexibility to local meal providers in designing meals that are appealing to project participants;

(C) the agency carrying out the project makes grants, or encourages meal providers to enter into contracts, that limit the amount of time that meals may spend in transit before the meals are consumed;

(D) the agency carrying out the project, where feasible, encourages arrangements with schools and other facilities serving meals to children in order to promote intergenerational meal programs;

(E) the agency carrying out the project provides that meals, other than home-delivered meals, are provided in settings in as close proximity to the majority of the residences of older individuals served by the project as is feasible;

(F) the agency carrying out the project ensures that meal providers carry out such project with the advice of dietitians (or individuals with comparable expertise in the planning of nutritional services), older individuals served by the project, and other individuals who are knowledgeable with regard to the needs of older individuals;

(G) the agency carrying out the project ensures that each participating area agency on aging establishes procedures that allow nutrition project administrators the option to offer a meal, on the same basis as meals provided to older individuals served by the project, to individuals providing volunteer services during the meal hours, and to individuals with disabilities who reside at home with, and accompany to the meal, older individuals served by the project;

(H) the agency carrying out the project ensures that nutrition services will be available to older individuals and to their spouses, and may be made available to individuals with disabilities who are not older individuals but who reside in housing facilities that are occupied primarily by older individuals and at which congregate nutrition services are provided;

(I) the project, where appropriate, provides for nutrition education, counseling, and screening; and

(J) the agency carrying out the project ensures that meal providers carry out such project in accordance with applicable State and local laws relating to food service.

## **TITLE IV—NATIVE AMERICAN PROGRAMS ON AGING**

### **SEC. 401. GRANTS FOR SERVICES TO NATIVE AMERICANS.**

(a) **AUTHORITY TO MAKE GRANTS.**—The Assistant Secretary may make grants to organizations that meet the requirements of subsection (b) and section 402 (referred to individually in this title as

an “eligible organization”) to pay for 100 percent of the costs of projects for delivery of supportive services, and nutrition services, for older individuals who are Native Americans.

(b) *ELIGIBILITY OF ORGANIZATIONS.*—An organization shall be eligible to receive a grant under this title only if the organization is—

- (1) a tribal organization that—
  - (A) represents at least 50 older individuals; and
  - (B) demonstrates the ability to deliver supportive services and nutrition services;
- (2) an Alaska Native organization that—
  - (A) represents at least 50 older individuals; and
  - (B) demonstrates the ability to deliver supportive services and nutrition services; or
- (3) a public or nonprofit private organization that—
  - (A) is primarily controlled by and comprised of Native Hawaiians;
  - (B) will serve at least 50 older individuals who are Native Hawaiians; and
  - (C) demonstrates the ability to deliver supportive services and nutrition services.

**SEC. 402. APPLICATIONS FOR GRANTS.**

(a) *REQUIREMENT.*—To be eligible to receive a grant under this title, an organization shall submit an application to the Assistant Secretary at such time, in such form, and containing such information as the Assistant Secretary may establish by rule. Each such application shall—

- (1) provide an assurance that such organization will evaluate the need for supportive services and nutrition services among older individuals who are—
  - (A) Indians represented by the organization submitting the application if such organization is a tribal organization described in section 401(b)(1);
  - (B) Alaska Natives represented by the organization submitting the application if such organization is an Alaska Native organization described in section 401(b)(2); or
  - (C) Native Hawaiians to be served by the organization submitting the application if such organization is an organization described in section 401(b)(3);
- (2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the project to be carried out with such grant;
- (3) provide an assurance that such organization will make such reports at such time, in such form, and containing such information, as the Assistant Secretary may reasonably require, and comply with such requirements as the Assistant Secretary may impose to ensure the correctness of such reports;
- (4) provide for periodic evaluation of the project to be carried out with such grant;
- (5) contain information describing objectives toward which such project will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which such organization proposes to overcome such obstacles;
- (6) provide for establishing and maintaining information and assistance services to ensure that older individuals who are

served by such project will have reasonably convenient access to the services and activities provided by such project;

(7) provide an assurance that the organization will, whenever feasible, give preference to older individuals who are Native Americans in hiring individuals for full- or part-time staff positions;

(8) provide an assurance that, either directly or by way of grant or contract with appropriate entities, the organization will—

(A) ensure that nutrition services will be delivered to older individuals as described in paragraph (1); and

(B) substantially comply with subtitle C of title III;

except that in any case in which the need of such individuals for nutrition services is already met from other sources, such organization may expend for supportive services the funds otherwise required to be expended under this paragraph;

(9) provide an assurance that in providing any legal assistance services or ombudsman services to older individuals as described in paragraph (1), the organization will substantially comply with the provisions of subtitles A and B of title II, and subtitles A and B of title III, relating to furnishing similar services;

(10) provide an assurance that the organization will adopt such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under this title to such organization, including any funds paid by such organization to a recipient of a grant or contract under this title;

(11) demonstrate that such organization will coordinate services provided under this title with services provided under subtitles B, C, and D of title II, and subtitles B and C of title III, in the same geographical area; and

(12) if the organization elects to solicit voluntary contributions from older individuals, provide an assurance that such organization will ensure that—

(A) the amount of the contributions will be based on the ability of the older individuals to make such contributions; and

(B) the contributions will be used to increase, or to expand access to, services provided under this title.

(b) **POPULATION STATISTICS.**—For the purpose of obtaining information for any application submitted under subsection (a) for a grant, an organization may develop population statistics approved by the Bureau of Indian Affairs for the population to be served under the grant, in order to establish eligibility to receive a grant under this title.

(c) **APPROVAL OF APPLICATION.**—

(1) **IN GENERAL.**—The Assistant Secretary shall approve any application that complies with subsection (a).

(2) **REPORTS.**—The Assistant Secretary shall provide waivers and exemptions of the reporting requirements of subsection (a)(3) for applicants that serve Native American populations in geographically isolated areas, or applicants that serve small Native American populations, where the small scale of the

*project, the nature of the applicant, or other factors make the reporting requirements unreasonable under the circumstances. The Assistant Secretary shall consult with such applicants in establishing appropriate waivers and exemptions.*

(3) *NUTRITION SERVICES.—In determining whether an application complies with the requirements of subsection (a)(8)(B), the Assistant Secretary shall provide maximum flexibility to an applicant who seeks to take into account subsistence needs, local customs, and other characteristics that are appropriate to the unique cultural, regional, and geographic needs of the Native American populations to be served.*

(4) *COORDINATION.—In determining whether an application complies with the requirements of subsection (a)(11), the Assistant Secretary shall require only that an applicant provide a narrative description of the geographical area to be served and an assurance that the applicant will adopt procedures on receipt of the grant to ensure against duplicate services being provided to the same recipients.*

(d) *APPLICATION NOT APPROVED.—Whenever the Assistant Secretary determines that the Assistant Secretary will not approve an application submitted under subsection (a) by an organization the Assistant Secretary shall—*

*(1) provide objections relating to the application in writing to the organization within 60 days after such determination;*

*(2) provide, to the extent practicable, technical assistance to the organization to overcome such objections; and*

*(3) provide the organization with a hearing, under such rules as the Assistant Secretary may issue.*

(e) *PERIOD FUNDED.—Whenever the Assistant Secretary approves an application of an organization under subsection (c), the Assistant Secretary shall make a grant to the organization under this title for a period of not less than 12 months.*

#### **SEC. 403. DISTRIBUTION OF FUNDS AMONG ELIGIBLE ORGANIZATIONS.**

(a) *MAINTENANCE OF 1991 AMOUNTS.—Subject to the availability of appropriations to carry out this title, the amount of a grant (if any) made under this title to an eligible organization for fiscal year 1997 or a subsequent fiscal year shall be not less than the amount of the grant made to the eligible organization for fiscal year 1991 under part A or B of title VI (as in effect on September 30, 1990).*

(b) *USE OF ADDITIONAL AMOUNTS APPROPRIATED.—If the amount appropriated to carry out this title for fiscal year 1997 or a subsequent fiscal year exceeds the amount appropriated to carry out parts A and B of such title VI for fiscal year 1991, the amount of the grant (if any) made under this title to an eligible organization for such subsequent fiscal year shall be—*

*(1) increased by such amount as the Assistant Secretary considers to be appropriate, in addition to any amount required by subsection (a), so that the grant equals or more closely approaches the amount of the grant made to the eligible organization—*

*(A) for fiscal year 1980 under part A of title VI (as in effect on September 30, 1979); or*



(B) for fiscal year 1995 under part B of title VI (as in effect on September 30, 1994); or  
 (2) an amount the Assistant Secretary considers to be sufficient, if the eligible organization—

(A) in the case of an organization described in paragraph (1) or (2) of section 401(b), did not receive a grant under part A of title VI for either fiscal year 1980 or fiscal year 1991 (as in effect on September 30, 1979 or September 30, 1990, as appropriate); or

(B) in the case of an organization described in section 401(b)(3), did not receive a grant under part B of title VI for either fiscal year 1991 or fiscal year 1995 (as in effect on September 30, 1990 or September 30, 1994, as appropriate).

#### **SEC. 404. SURPLUS EDUCATIONAL FACILITIES.**

##### **(a) REQUIREMENT.—**

(1) **AVAILABILITY.**—Notwithstanding any other provision of law, the Secretary of the Interior shall—

(A) make a surplus Indian educational facility or a surplus Alaska Native educational facility available for use as a multipurpose senior center—

(i) to an organization described in section 401(b)(1) or an organization described in section 401(b)(2), respectively; or

(ii) with the approval of the Indian tribe or Alaska Native organization involved, to a public or nonprofit private organization; and

(B) make any other surplus educational facility that is under the control of the Secretary of the Interior and is located in Hawaii available for use as a multipurpose senior center, to an organization described in section 401(b)(3).

(2) **ALTERATION TO PROVIDE CERTAIN SERVICES.**—Such centers may be altered so as to provide extended care facilities, community center facilities, nutrition services, adult day-care services, child care services, or other supportive services.

(b) **APPLICATION.**—To be eligible to receive a surplus educational facility made available under subsection (a), an organization described in section 401(b) shall submit an application to the Secretary of the Interior at such time, in such form, and containing such information, as the Secretary of the Interior determines to be necessary to carry out this section.

#### **SEC. 405. ADMINISTRATION.**

For the purpose of issuing rules to carry out this title, the Secretary, acting through the Assistant Secretary, shall consult with the Secretary of the Interior.

#### **SEC. 406. PAYMENTS.**

Payments may be made under this title (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement and in such installments and on such conditions as the Assistant Secretary may determine to be appropriate.

**SEC. 407. AUTHORIZATION OF APPROPRIATIONS.**

*There are authorized to be appropriated to carry out this title, such sums as may be necessary for fiscal years 1997 through 2001.*

## **TITLE V—SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM**

**SEC. 501. SHORT TITLE.**

*This title may be cited as the “Older American Community Service Employment Act”.*

**SEC. 502. ALLOTMENT OF FUNDS FOR FISCAL YEAR 1996.****(a) ALLOTMENT.—**

*(1) RESERVATION OF FUNDS FOR TRIBAL ORGANIZATIONS.—Of the amount appropriated under section 507 for fiscal year 1996, the Assistant Secretary shall reserve not more than 1.3 percent for making grants under this title to tribal organizations.*

**(2) ALLOTMENT OF FUNDS.—**

*(A) ALLOTMENT.—After reserving funds under paragraph (1), the Assistant Secretary shall allot the remainder of the amount appropriated under section 507 for fiscal year 1996 among the States as follows:*

*(i) IN GENERAL.—Each State shall be allotted an amount equal to the product of—*

*(I) the base percentage rate for such fiscal year; and*

*(II) a sum that bears the same ratio to such remainder for such fiscal year as the amount of funds allotted to such State for fiscal year 1995 to carry out this title (as in effect on the day before the date of enactment of the Older Americans Amendments of 1996) bears to the total amount allotted to all States for fiscal year 1995 to carry out such title.*

*(ii) BALANCE.—The balance of the remainder for fiscal year 1996 shall be allotted in accordance with subparagraph (C).*

*(B) BASE PERCENTAGE RATES.—For purposes of subparagraph (A)(i), the base percentage rate for fiscal year 1996 shall be 80 percent.*

*(C) ALLOTMENTS BASED ON AGE AND PER CAPITA INCOME.—The balance referred to in subparagraph (A)(ii) shall be allotted as follows:*

*(i) ALLOTMENT.—Subject to clause (ii), each State shall be allotted an amount equal to the product of—*

*(I) the allotment percentage of the State; and*

*(II) a sum that bears the same ratio to such balance for such fiscal year as the number of individuals 55 years of age or older in the State bears to the population of such individuals in all States.*

*(ii) REDUCTION.—The amounts allotted under clause (i) shall be reduced proportionately to the extent necessary to increase other allotments made under such clause to achieve the following:*

(I) *STATES*.—Each State shall be allotted not less than  $\frac{1}{2}$  of 1 percent of the balance for the fiscal year for which the determination is made.

(II) *OTHER JURISDICTIONS*.—Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than  $\frac{1}{4}$  of 1 percent of the balance for the fiscal year for which the determination is made or \$50,000, whichever is greater.

(D) *ALLOTMENT PERCENTAGE*.—For purposes of subparagraph (C)(i)—

(i) except as provided in clauses (ii) through (iv), the allotment percentage of each State shall be 100 percent less the percentage that bears the same ratio to 50 percent as the per capita income of the State bears to the per capita income of all the States;

(ii) the allotment percentage for each State shall be not more than 75 percent and not less than  $33\frac{1}{3}$  percent;

(iii) the allotment percentage for Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall be 75 percent; and

(iv) subject to clause (ii), the allotment percentage for a State whose allotment percentage is not adjusted under clause (ii) or (iii) shall be adjusted proportionately to the extent necessary to achieve the percentages required under such clauses.

(E) *LIMITATION*.—For purposes of subparagraphs (C)(ii)(I) and (D)(i), the term “State” does not include Guam, American Samoa, the Virgin Islands of the United States, or the Commonwealth of the Northern Mariana Islands.

(F) *POPULATION AND PER CAPITA INCOME DETERMINATIONS*.—For purposes of this paragraph, the number of individuals 55 years of age or older in each State, and the per capita income of each State, shall be determined by the Assistant Secretary on the basis of the most recent data available from the Bureau of the Census and other reliable demographic data satisfactory to the Assistant Secretary.

(b) *REALLOTMENT*.—If any part of the amount allotted under this section to a State for a fiscal year is not distributed to the State for such fiscal year, such part shall be reallocated under this section for such fiscal year to the remaining eligible States.

**SEC. 503. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.**

(a) *AUTHORITY FOR PROGRAM*.—

(1) *GRANTS*.—With funds allotted under section 502(a), the Assistant Secretary shall make grants to eligible States and tribal organizations for the purpose of providing, to unemployed low-income older individuals who have poor employment prospects (as determined in accordance with standards issued by the States and organizations), part-time employment opportuni-

*ties providing community services, including providing services for a business, to the extent permitted by subsection (b)(3).*

(2) *USE OF FUNDS.—*

(A) *WAGES AND BENEFITS.—*

(i) *IN GENERAL.—Except as provided in clause (ii) or subparagraph (C) or (D), not less than 90 percent of the funds made available through a grant made under paragraph (1) shall be used to pay wages and benefits for older individuals who are employed under projects carried out under this title.*

(ii) *SMALL STATES.—Except as provided in subparagraph (C) or (D), not less than 85 percent of the funds made available through a grant made under paragraph (1) to a small State shall be used to pay wages and benefits for older individuals who are employed under projects carried out under this title.*

(B) *ADMINISTRATIVE COSTS.—*

(i) *IN GENERAL.—Except as provided in clause (ii), not more than 10 percent of the funds made available through a grant made under paragraph (1) may be used to pay for administrative costs.*

(ii) *SMALL STATES.—Not more than 15 percent of the funds made available through a grant made under paragraph (1) to a small State may be used to pay for administrative costs.*

(C) *OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT DIRECTLY.—*

(i) *IN GENERAL.—A State or tribal organization that receives a grant under paragraph (1) for a project and that elects to carry out the project directly, or through an agreement under subsection (b) with a political subdivision, may request that the Assistant Secretary provide for a fiscal year—*

*(I) a general waiver of subparagraph (A); or*

*(II) the general waiver and an additional waiver of subparagraph (A).*

(ii) *REQUEST.—*

*(I) IN GENERAL.—The State or tribal organization shall submit such a request at such time, in such form, and containing such information as the Assistant Secretary may require by rule.*

*(II) INFORMATION FOR ADDITIONAL WAIVER.—Except as provided in subclause (III), a State or tribal organization that requests such an additional waiver for a fiscal year shall submit with the request information demonstrating that at least 30 percent of the participants in the projects carried out through a grant made under paragraph (1) for the previous year to the State or organization were placed in unsubsidized employment.*

*(III) WAIVER.—The Assistant Secretary may elect to waive the requirement described in subclause (II) for tribal organizations serving Native American populations in which the unemployment rate*

(as determined by the Secretary of Labor for the most recent 12-month period for which data are available, prior to the fiscal year for which the determination is made) exceeds 50 percent.

(iii) *APPROVAL.*—If the Assistant Secretary determines that the State or tribal organization has submitted a request that meets the requirements of clause (ii), the Assistant Secretary shall approve the request.

(iv) *GENERAL WAIVER.*—A State or tribal organization that receives only a general waiver referred to in this subparagraph may use—

(I) not less than 80 percent of the funds made available through the grant for the fiscal year for which the waiver is requested to pay wages and benefits described in subparagraph (A)(i);

(II) not more than 10 percent (or not more than 15 percent in the case of a small State) of such funds to pay for administrative costs; and

(III) the remaining portion of such funds to pay for other participant costs.

(v) *ADDITIONAL WAIVER.*—A State or tribal organization that receives a general waiver and an additional waiver referred to in this subparagraph may use—

(I) not less than 75 percent of the funds made available through the grant for the fiscal year for which the waiver is requested to pay wages and benefits described in subparagraph (A)(i);

(II) not more than 10 percent (or not more than 15 percent in the case of a small State) of such funds to pay for administrative costs; and

(III) the remaining portion of such funds to pay for other participant costs.

(D) *OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT UNDER AGREEMENTS.*—

(i) *IN GENERAL.*—An entity, other than a State or tribal organization that receives a grant under subsection (a), or a political subdivision, that carries out a project under a grant made under paragraph (1) may request that the State or tribal organization that received the grant provide for a fiscal year—

(I) a general waiver of subparagraph (A); and

(II) an additional waiver of subparagraph (A).

(ii) *APPLICATION OF PROVISIONS.*—The provisions of clauses (ii) through (v) of subparagraph (C) shall apply to such requests and such general and additional waivers, as appropriate, except that references in such provisions—

(I) to a State or tribal organization shall be deemed to be references to the entity referred to in clause (i); and

(II) to the Assistant Secretary shall be deemed to be references to the State or tribal organization that received the grant referred to in clause (i).

(E) *NON-FEDERAL SOURCES.*—To the maximum extent practicable, an entity that carries out a project under this title shall provide for the payment of the costs described in subparagraph (B), (C), or (D) from non-Federal sources.

(b) *ELIGIBILITY FOR GRANTS.*—

(1) *APPLICATION AND AGREEMENTS.*—To be eligible to receive a grant under subsection (a), a State or tribal organization shall submit to the Assistant Secretary an application at such time, in such form, and containing such information as the Assistant Secretary may require by rule, including an assurance that funds made available through such grant—

(A) will be used by the State or tribal organization to carry out projects for the purpose specified in subsection (a)(1)—

(i) directly (in accordance with the requirements of subsection (d)); or

(ii) through agreements that satisfy the requirements of this subsection and subsection (d); and

(B) will not be used to carry out a project involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

(2) *PARTICIPANTS IN AGREEMENT.*—Such agreements shall be entered into by the State or tribal organization with—

(A) public or nonprofit private agencies or organizations;

(B) political subdivisions of States having elected or duly appointed governing officials (or combinations of such political subdivisions);

(C) tribal organizations; and

(D) area agencies on aging.

(3) *AGREEMENTS WITH BUSINESSES.*—At the election of a State or tribal organization that receives a grant made under subsection (a), not more than 5 percent of the funds made available through the grant may be used to enter into agreements with businesses (giving special consideration to businesses in growth industries) to pay for not more than 50 percent of the cost of providing part-time employment (including arranging for the provision of part-time employment) to older individuals described in subsection (a)(1).

(c) *COMPETITIVE BASIS.*—In selecting an entity with whom a State or tribal organization will enter into an agreement under subsection (b), the State or organization—

(1) shall make the selection on a competitive basis; and

(2) shall take into consideration, where appropriate, the demonstrated ability of the entity to provide employment (including arranging for the provision of employment) to older individuals as described in subsection (a)(1).

(d) *REQUIREMENTS.*—

(1) *IN GENERAL.*—Each agreement entered into under subsection (b) for a project shall provide that no payment shall be made by the State or tribal organization toward the cost of such project unless the State or tribal organization determines that such project, or the entity that carries out such project, as appropriate, will satisfy each of the conditions described in para-

graphs (2) through (13). Each State or tribal organization that carries out a project directly under subsection (b) shall ensure that such project or the State or organization, as appropriate, will satisfy each of the conditions described in paragraphs (2) through (13).

(2) **FEDERAL SHARE REQUIREMENT.**—

(A) **IN GENERAL.**—The entity that carries out the project shall use funds received for such project that are made available through a grant made under subsection (a) to pay for the Federal share of the cost of the project.

(B) **FEDERAL SHARE.**—The Federal share of the cost of the project shall be not more than 85 percent (or not more than 50 percent in the case of a project carried out under an agreement described in subsection (b)(3)).

(C) **NON-FEDERAL SHARE.**—The non-Federal share of such cost shall be contributed in cash or in kind. In determining the amount of the non-Federal share, the Assistant Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

(3) **PERSONNEL.**—The project shall provide employment only for older individuals described in subsection (a)(1), except for necessary technical, administrative, and supervisory personnel. Such personnel shall, to the fullest extent possible, be recruited from among older individuals described in subsection (a)(1).

(4) **COMMUNITIES.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), if such project is carried out by or under an agreement with a State, the project shall provide employment for such individuals in the community in which such individuals reside, or in nearby communities.

(B) **RESERVATIONS.**—If such project is carried out by a tribal organization that receives a grant under subsection (a), or enters into an agreement under subsection (b) with a State that receives a grant under subsection (a), the project shall provide employment for such individuals who are Indians residing on an Indian reservation, as the term is defined in section 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. 3501(2)).

(5) **SERVICES.**—The project (except a project carried out under an agreement described in subsection (b)(3)) shall employ older individuals described in subsection (a)(1) in positions in which the individuals provide services—

(A) related to publicly owned and operated facilities or public projects; or

(B) related to projects sponsored by organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 that are exempt from taxation under section 501(a) of such Code.

(6) **GENERAL WELFARE.**—The project shall contribute to the general welfare of the community in which the project is carried out.

(7) **EMPLOYMENT IMPACTS.**—The project shall—

(A) result in an increase in employment opportunities over the opportunities that would otherwise be available;

(B) not result in the displacement (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits) of currently employed workers (as of the date of the beginning of the project); and

(C) not impair existing contracts (as of the date of the beginning of the project) or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

(8) *RECRUITMENT AND SELECTION.*—In carrying out the project, the entity shall utilize methods of recruitment and selection (including listing job vacancies with an employment agency operated by any State or political subdivision of a State) that will ensure that the maximum number of older individuals described in subsection (a)(1) will have an opportunity to participate in the project.

(9) *TRAINING.*—The project shall include such training as may be necessary to make the most effective use of the skills and talents of such individuals who are participating in the project and assist in their transition into employment for which no financial assistance is provided under this title.

(10) *ADVICE.*—The entity shall establish or administer the project after receiving the advice of—

(A) individuals competent in the field of service in which the project will provide employment; and

(B) individuals who are knowledgeable with regard to the needs of older individuals.

(11) *ASSESSMENT.*—The entity shall prepare an assessment of—

(A) the skills and talents of each participating older individual;

(B) the need of the older individual for supportive services; and

(C) the ability of the older individual to perform community service employment;

except to the extent that the project has an assessment of such skills and talents, such need, or such ability, of the individual that was prepared recently pursuant to another Federal or State employment or job training program.

(12) *NOTICE AND EXPLANATION.*—The entity that carries out such project shall post in the project workplace a notice, and shall make available to each individual associated with such project a written explanation, clarifying the law with respect to allowable and unallowable political activities under chapter 15 of title 5, United States Code, applicable to the project and to each category of individuals associated with such project.

(13) *PRIORITY IN EMPLOYMENT OPPORTUNITIES.*—In providing employment opportunities (including arranging for the provision of employment opportunities) under the project, such entity shall give priority to low-income older individuals described in subsection (a)(1) who are 60 years of age or older.

(e) *PREREQUISITE DETERMINATIONS AND COORDINATION.*—

(1) *DETERMINATIONS.*—To effectively carry out subsection (b), a State or tribal organization that receives a grant under sub-



section (a) for a fiscal year shall, after consultation with the appropriate area agencies on aging and with other organizations that received funds under this title in the preceding fiscal year—

(A) make a determination identifying the localities in the State (or on an Indian reservation if a tribal organization receives such a grant or enters into an agreement with a State that receives such a grant), in which projects described in subsection (b) are most needed;

(B) in making such determination, consider the local employment situations and the types of skills possessed by available local older individuals described in subsection (a)(1); and

(C) make a determination identifying potential projects for, and the number and percentage of such individuals in the local population of, each such locality.

(2) *COORDINATION.*—To increase employment opportunities available to older individuals, the State or tribal organization shall coordinate the projects assisted under this title with—

(A) other programs, projects, and activities carried out under this Act; and

(B) other Federal or State employment or job training programs.

(3) *PARTICIPANTS.*—To the maximum extent practicable, the State or tribal organization shall ensure that entities that carry out projects under this title provide employment (including arranging for the provision of employment) under this title to older individuals who on the day before the effective date of section 3 of the Older Americans Amendments of 1996 were participants under an agreement entered into under section 502(b) (as in effect on the day before such date).

(f) *EQUITABLE USE OF FUNDS.*—To the maximum extent practicable, the State or tribal organization shall use funds available for this title to enter into agreements under subsection (b), or carry out this title, in an equitable manner, taking into consideration the number of eligible older individuals in the various geographical areas served under the agreements or by the State or organization and the relative distribution of such individuals among urban and rural areas.

(g) *PRIOR SUBMISSION OF PROJECT DESCRIPTION.*—If an entity carries out a project under this title in a planning and service area, and the entity is not the area agency on aging for the planning and service area, the entity shall carry out the project in consultation with the area agency on aging and shall submit to the area agency on aging, not less than 30 days before undertaking the project, a description (including the location) of such project.

(h) *ALTERNATIVE WORK MODES; TECHNICAL ASSISTANCE.*—To assist entities carrying out, and participants in, projects assisted under this title, the State or tribal organization may develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to groups representing business and industry, and workers, as well as to individual employers, where appropriate.

(i) *REPORT.*—If a State or tribal organization elects under subsection (b) to enter into agreements described in paragraph (3) of such subsection for a fiscal year, the State or tribal organization shall submit to the Assistant Secretary a report describing the projects carried out under such agreements.

(j) *DATA COLLECTION AND ANALYSIS.*—A State or tribal organization that receives a grant under subsection (a) for a project shall use a portion of the funds available for administrative costs, as described in subsection (a)(2)(B)—

(1) to collect data and carry out analyses related to the need for community service employment within the population served under the grant; and

(2) to disseminate information obtained through the data collection and analyses.

(k) *RULES.*—The Secretary shall issue, and amend from time to time, rules that require States and tribal organizations that receive grants under subsection (a) to establish, to the maximum extent practicable, for projects carried out under this title the goal of annually placing not less than 20 percent of project participants in employment for which no financial assistance is provided under this title.

#### **SEC. 504. PARTICIPANTS NOT FEDERAL EMPLOYEES.**

(a) *PROJECT PARTICIPANTS.*—Older individuals described in section 503(a)(1) who participate in a project assisted under this title shall not be considered to be Federal employees as a result of such participation and shall not be subject to the provisions of part III of title 5, United States Code.

(b) *WORKMEN'S COMPENSATION.*—No State or tribal organization shall enter into an agreement under section 503(b) with, or carry out such a project through, an entity who is, or whose employees are, under State law, exempted from the operation of the State workmen's compensation law, generally applicable to employees, unless the entity undertakes to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the individuals employed under the contract shall enjoy workmen's compensation coverage equal to such coverage provided by law for covered employment.

#### **SEC. 505. EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS.**

Funds received by eligible individuals from projects carried out under this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

#### **SEC. 506. DEFINITIONS.**

As used in this title:

(1) *ADMINISTRATIVE COSTS.*—The term “administrative costs”, used with respect to a project, means—

(A) the costs of—

(i) salaries, wages, and fringe benefits for project administrators;

(ii) consumable office supplies used by project staff;

(iii) development, preparation, presentation, management, and evaluation of the project;

(iv) establishment and maintenance of accounting and management information systems;

(v) establishment and maintenance of advisory councils;

(vi) travel of the project administrators;

(vii) rent, utilities, custodial services, and indirect costs attributable to the project;

(viii) training of staff and technical assistance to subproject sponsor staff;

(ix) equipment and material for use by project staff;

or

(x) audit services; and

(B) the costs and expenses described in paragraph (6)(B).

(2) *COMMUNITY SERVICE EMPLOYMENT.*—The term “community service employment” means employment described in section 503(a)(1).

(3) *COMMUNITY SERVICES.*—The term “community services” means—

(A) social, health, welfare, and educational services (particularly literacy tutoring);

(B) legal and other counseling services and assistance, including tax counseling and assistance and financial counseling;

(C) library and recreational services, and other similar services;

(D) conservation, maintenance, or restoration of natural resources;

(E) community betterment or beautification;

(F) antipollution and environmental quality efforts;

(G) weatherization activities;

(H) economic development;

(I) services for a business, to the extent permitted by section 503(b)(3); and

(J) such other services as the Secretary determines by regulation to be essential and necessary to the community involved.

(4) *LOW-INCOME.*—The term “low-income”, used with respect to an individual, means an individual who is a member of a family that has an income that is not more than 125 percent of the poverty line.

(5) *OLDER INDIVIDUAL.*—The term “older individual” means an individual who is 55 years of age or older.

(6) *OTHER PARTICIPANT COSTS.*—

(A) *IN GENERAL.*—The term “other participant costs” includes—

(i) the costs for participants of—

(I) transportation;

(II) training, including training described in section 503(d)(9); and

(III) special job or personal counseling; and

(ii) incidental expenses necessary for the participation of the participants, such as workshoes, safety eyeglasses, uniforms, tools, and similar items.

(B) *EXCLUSION.*—The term shall not include—

(i) the costs of performing assessments, including the assessment described in section 503(d)(11);

(ii) administrative expenses relating to the training of participants;

(iii) the costs of providing counseling to participants;

(iv) the costs of providing supportive services to participants;

(v) transportation costs incurred in training;

(vi) the costs of evaluating participants for continued participation in employment in a project described in this title; or

(vii) the costs of developing host agency assignments and unsubsidized employment for participants.

(7) *PLACED IN UNSUBSIDIZED EMPLOYMENT.*—

(A) *IN GENERAL.*—The term “placed in unsubsidized employment” means, with respect to an individual who was a participant in a project described in this title, that—

(i)(I) the individual was placed in a position with an employer not later than 90 days after the individual terminated participation in the project, and the position was not subsidized with Federal funds; and

(II) the placement was attributable to participation in the project;

(ii) the employer intended, on the date of the placement, to employ the individual in the position for not less than 90 days;

(iii) the individual was still employed in the position 30 days after the placement; and

(iv) the individual was better off economically when employed in the position than the individual was when participating in the project.

(B) *BETTER OFF ECONOMICALLY.*—As used in this paragraph, the term “better off economically”, used with respect to an individual, means an individual who was a participant in a project described in this title and was placed in a position of employment if—

(i) the individual received greater income for employment in the position than for participation in the project;

(ii) the individual received greater benefits (as defined by the State in which the project is located) for employment in the position than for participation in the project; or

(iii) the position met 2 or more of the following criteria:

(I) The position provided to the individual 20 or more hours of employment per week and a wage that is not less than the minimum wage determined in accordance with section 6(a)(1) of the

*Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).*

*(II) The position was consistent with the individual development plan for the individual.*

*(III) The position provided free housing to the individual.*

*(IV) The position provided free food or meals to the individual.*

*(V) The position provided health benefits to the individual.*

*(VI) The position provided free transportation, or transportation at a reduced cost, to the individual.*

*(VII) The position provided to the individual such economic benefits, other than the benefits described in subclauses (I) through (VI), as the State in which the project was located determined to be appropriate.*

*(8) SMALL STATE.—The term “small State” means—*

*(A) a State whose allotment under section 502 is increased as a result of the condition specified in section 502(a)(2)(C)(ii)(I); and*

*(B) a State referred to in section 502(a)(2)(C)(ii)(II).*

*(9) STATE.—The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.*

*(10) TRIBAL ORGANIZATION.—Notwithstanding section 102, the term “tribal organization” means—*

*(A) the recognized governing body of an Indian tribe;*

*(B) the legally established organization of Indians that is controlled, sanctioned, or chartered by the recognized governing body of an Indian tribe;*

*(C) a legally established organization of Indians that is democratically elected by the adult members of the Indian community to be served by such organization and that includes the maximum participation of Indians in all phases of the activities of the organization; and*

*(D) a public or nonprofit private organization that is primarily controlled by and comprised of Indians or Indian tribes.*

#### **SEC. 507. AUTHORIZATION OF APPROPRIATIONS.**

*(a) IN GENERAL.—There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1996.*

*(b) PROGRAM YEAR AND EXTENSIONS.—*

*(1) PROGRAM YEAR.—Amounts appropriated under subsection (a) for a fiscal year shall be used during the annual period that—*

*(A) begins on July 1 of the calendar year immediately following the beginning of such fiscal year; and*

*(B) ends on June 30 of the following calendar year.*

*(2) EXTENSIONS.—If, in accordance with section 502(b), any part of an allotment is reallocated to a State for a fiscal year,*

*such part shall be considered to be a portion of the appropriate allotment of the State for the fiscal year, but shall remain available for obligation for the State until the end of the succeeding fiscal year.*

\* \* \* \* \*

#### TITLE 7, UNITED STATES CODE

\* \* \* \* \*

SEC. 1431e(2)(C) Whenever commodities are made available to agencies pursuant to [section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4))] *section 123, and subtitle C of title III of the Older Americans Act of 1965*, the Secretary shall encourage access to processed end products containing the commodities when in the Secretary's judgment it is cost effective. The requirements of this subparagraph shall be met in the most efficient and effective way possible. The Secretary may, among other alternatives, use direct purchase, State option contracts authorized under section 3A of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note), State processing programs, and (beginning in fiscal year 1994) agreements with private companies operated as a part of the national commodity processing program.

(D) In each of fiscal years 1992, 1993, and 1994, the Secretary shall conduct a pilot project in not more than three States under which any commodity made available to agencies pursuant to [section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4))] *section 123, and subtitle C of title III of the Older Americans Act of 1965* that the Secretary determines to be appropriate for reprocessing is made available to the agencies as reprocessed end products. The reprocessing shall be performed pursuant to agreements with private companies, at the expense of the agencies, and operated as part of the national commodity processing program established under subparagraph (A). In determining the appropriateness of the commodities to be reprocessed under the pilot project, the Secretary shall consider the common needs of the agencies and the availability of processors.

\* \* \* \* \*

#### TITLE 29, UNITED STATES CODE

SEC. 1604(d)(4) Coordination. In providing the services required by this subsection, the Governor shall make efforts to coordinate the delivery of such services with the delivery of services under [title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.)] *subtitle C of title II of the Older Americans Act of 1965*.

(5)(B)(i) Individuals facing serious barriers to employment. An individual who is not economically disadvantaged as described in subparagraph (A) shall be eligible to participate in a job training program under this subsection if the individual faces serious barriers to employment, is an older individual, and meets income eligibility requirements under [title V of the Older Americans Act of

1965 (42 U.S.C. 3056 et seq.) subject to clause (ii)] *subtitle C of title II of the Older Americans Act of 1965.*

\* \* \* \* \*

SEC. 1605(a)[(8) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);] (8) *subtitle C of title II of the Older Americans Act of 1965;*

\* \* \* \* \*

SEC. 1735(b) Data Elements. The Secretaries of Labor, Education, and Health and Human Services, in consultation with other appropriate departments and with the National Occupational information Coordinating Committee, shall identify a core set of consistently defined data elements for employment and training programs, including those funded under titles II, III, and IV of this Act, the Wagner-Peyser Act (29 U.S.C. 49 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), the JOBS program, and [title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.)] *subtitle C of title II of the Older Americans Act of 1965.*

\* \* \* \* \*

SEC. 2212(e)(23)(G) [any council established under section 204, 206(g)(2)(A), 712(a)(3)(H) of the Older Americans Act of 1965 (42 U.S.C. 3015, 3017(g)(2)(A), or 3058g(a)(3)(H)] *any council established under section 212(c)(3)(G) or 302(a)(5)(D) of the Older Americans Act of 1965.*

\* \* \* \* \*

#### TITLE 31, UNITED STATES CODE

\* \* \* \* \*

SEC. 3803(c)(2)(C)(xi) [benefits under the Black Lung Benefits Act;] *benefits under subtitle C of title III of the Older Americans Act of 1965.*

\* \* \* \* \*

#### TITLE 42, UNITED STATES CODE

\* \* \* \* \*

SEC. 1395b—4(d)(1)(C)(ii) administering funds appropriated under the Older Americans Act of 1965.

\* \* \* \* \*

SEC. 1395i—3(b)(4)(C)(ii)(IV) the Secretary provides notice of the waiver to the State long-term care ombudsman (established under [section 307(a)(12) of the Older Americans Act of 1965] *the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act*) and the protection and advocacy system in the State for the mentally ill and the mentally retarded, and

\* \* \* \* \*

(c)(2)(B)(iii)(II) the name mailing address, and telephone number of the State long-term care ombudsman (established under [title III or VII of the Older Americans Act of 1965 in accordance with

section 712 of the Act】 *the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act*).

\* \* \* \* \*

(g)(5)(B) Notice to Ombudsman. Each State shall notify the State long-term care ombudsman (established under 【title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act】 *the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act*) of the State’s findings of noncompliance with any of the requirements of subsection (b), (c), and (d), or of any adverse action taken against a skilled nursing facility under paragraph (1), (2), or (4) of subsection (h), with respect to a skilled nursing facility in the State.

\* \* \* \* \*

SEC. 1396r(b)(4)(C)(ii)(IV) the State agency granting a waiver of such requirements provides notice of the waiver to the State long-term care ombudsman (established under 【section 307(a)(12) of the Older Americans Act of 1965】 *the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act*) and the protection and advocacy system in the State for the mentally ill and the mentally retarded, and

\* \* \* \* \*

(c)(2)(B)(iii)(II) the name, mailing address, and telephone number of the State long-term care ombudsman (established under 【title III or VII of the Older Americans Act of 1965】 *the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act*) in accordance with section 712 of the Act).

\* \* \* \* \*

(g)(5)(B) Notice to ombudsman. Each State shall notify the State long-term care ombudsman (established under 【title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act】 *the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act*) of the State’s findings of noncompliance with any of the requirements of subsections (b), (c), and (d), or of any adverse action taken against a nursing facility under paragraphs (1), (2), or (3) of subsection (h), with respect to a nursing facility in the State.

\* \* \* \* \*

SEC. 1438. Special low-income housing projects for elderly or handicapped; consultations; applicable design and equipment standards.

The Secretary shall consult with the Secretary of Health and Human Services to insure that special projects for elderly or disabled families authorized pursuant to United States Housing Act of 1937 shall meet acceptable standards of design and shall provide quality services and management consistent with the needs of the occupants. Such projects shall be specifically designed and equipped with such “related facilities” (as defined in section 202(d)(8) of the Housing Act of 1959) as may be necessary to accommodate the special environmental needs of the intended occupants and shall be in support of and supported by the applicable State plans for comprehensive services pursuant to section 134 of



the Mental Retardation Facilities and Community Mental Health Center Construction Act of 1963 or State and area plans pursuant to [title III of the Older Americans Act of 1965] *sections 202 and 302 of the Older Americans Act of 1965*;

\* \* \* \* \*

SEC. 1762A(a)(1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section (which may include domestic seafood commodities and their products), for donation to maintain the annually programmed level of assistance for programs carried on under this Act, the Child Nutrition Act of 1966, and [title III of the Older Americans Act of 1965] *subtitle C of title III of the Older Americans Act of 1965*; and

\* \* \* \* \*

(c) Authorization of appropriations for purchase of products or for cash payments in lieu of donations. The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily [purchased for donation under section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030(a)(4)) or for cash payments in lieu of such donations under section 311(b)(1) of such Act (42 U.S.C. 3030(b)(1))] *[purchased under section 123 of the Older Americans Act of 1965 or for allotments under such section]*. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

\* \* \* \* \*

SEC. 1766(o)(3)(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under [part C of title III of the Older Americans Act of 1965] *subtitle C of title III of the Older Americans Act of 1965*, for the same meal served.

\* \* \* \* \*

SEC. 4368a(a) Technical assistance to environmental agencies. Notwithstanding any other provision of law relating to Federal grants and cooperative agreements, the Administrator of the Environmental Protection Agency is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations designed by the Secretary of Labor under [title V of the Older Americans Act of 1965] *subtitle C of title II of the Older Americans Act of 1965* to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Administrator (and consistent with such provisions of law) in providing technical assistance to Federal, State, and local environmental agencies for projects of pollution prevention, abatement, and control. Funding for such grants or agreements may be made available from such programs or through [title V of the Older Americans Act

of 1965] *subtitle C of title II of the Older Americans Act of 1965* and title IV of the Job Training Partnership Act.

\* \* \* \* \*

SEC. 4728(a)(3)(B) section 303(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)(6)) *(as in effect on January 4, 1971)*;

\* \* \* \* \*

SEC. 4913(g) provide for the maximum use in programs assisted under this section of senior citizens and persons eligible for participation in programs under the Older Americans Act of 1965.

\* \* \* \* \*

SEC. 5021(a)(2)(A)(ii) involve retired and senior volunteers, and senior companions, in providing services authorized by [title III of the Older Americans Act of 1965] *subtitles B and D of title II, and subtitles B and C of title III, of the Older Americans Act of 1965*; and

\* \* \* \* \*

SEC. 6024(b)(3) Representation of agencies and organizations. Each Council shall at all times include representatives of the principal State agencies (including the State agencies that administer funds provided under the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Older Americans Act of 1965, and title XIX of the Social Security Act), institutions of higher education, each university affiliated program in the State established under part D the State protection and advocacy system established under part C, and local agencies, nongovernmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in the State in which such agencies and groups are located. Such representatives shall—

\* \* \* \* \*

SEC. 6862(6) The terms “Indian”, “Indian tribe”, and “tribal organization” have the meanings prescribed for such terms by [paragraphs (4), (5), and (6), respectively, of section 102 of the Older Americans Act of 1965] *paragraphs (24)(A), (25)(A), and (50)(A), respectively of section 102 of the Older Americans Act of 1965*.

\* \* \* \* \*

SEC. 8011(d)(2)(B)(i) receives assistance under [title III of the Older Americans Act of 1965] *subtitle C of title III of the Older Americans Act of 1965*; or

\* \* \* \* \*

SEC. 8012(d)(12) a statement that the application has been developed in consultation with the area agency on aging [under title III of the Older Americans Act of 1965] *as defined in section 102 of the Older Americans Act of 1965* and that the public housing agency will periodically consult with the area agency during the demonstration.

\* \* \* \* \*

SEC. 11261(b)(4) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning the role of physicians in caring for persons with Alzheimer’s disease and related dementias and for

their families, including the role of a physician in connecting such persons with appropriate health care and supportive services, including those supported through **State and area agencies on aging designated under section 305(a)(1) and (2)(A) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1) and (2)(A))** *State agencies and area agencies on aging, as defined in section 102 of the Older Americans Act of 1965*; and

\* \* \* \* \*

SEC. 11292(d) Application. To be eligible to receive a grant under this section, an entry shall submit an application to the Director of the National Institute on Aging at such time, in such manner, and containing or accompanied by such information, as the Director may reasonably require, including, at a minimum, an assurance that the entity will coordinate programs provided under this section with the State agency **designated under section 305(a)(1) of the Older Americans Act of 1965** *as defined in section 102 of the Older Americans Act of 1965* in the State in which the entity will provide such programs.

\* \* \* \* \*

#### TITLE 42, UNITED STATES CODE

\* \* \* \* \*

#### SEC. 3002. Definitions.

For the purposes of this Act—

(1) The term “Secretary” means the Secretary of Health and Human Services **], except that for purposes of title V such term means the Secretary of Labor.]**.

\* \* \* \* \*

SEC. 3011. Establishment of Administration; Assistant Secretary for Aging.

(a) There is established in the Office of the Secretary an Administration on Aging which shall be headed by an Assistant Secretary for Aging. **[Except for title V, the]** *The* Administration shall be the agency for carrying out this Act. In the performance of the functions of the Assistant Secretary, the Assistant Secretary shall be directly responsible to the Secretary. There shall be a direct reporting relationship between the Assistant Secretary and the Secretary. The Secretary shall not approve or require any delegation of the functions of the Assistant carried out through regional offices) to any other officer not directly responsible to the Assistant Secretary.

\* \* \* \* \*

SEC. 3013(a)(3)(A) older individuals (with particular attention to low-income minority older individuals) and eligible individuals (as defined in section 507 *(as in effect on the day before the date of enactment of the Older Americans Amendments of 1996)*).

\* \* \* \* \*